SUPREME COURT OF THE UNITED STATES.

DECEMBER TERM, 1850.—No. 137.

WYLLYS LYMAN, GEORGE P. MARSH, JOHN PECK, AND JOHN H. PECK, PLAINTIFFS IN ERROR,

vs.

THE BANK OF THE UNITED STATES.

IN ERROR TO THE CIRCUIT COURT, UNITED STATES, FOR THE DISTRICT OF VERMONT.

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GIDEON, Printer.

UNITED STATES OF AMERICA, *ss.*

[L. S.] [L. S.]

The President of the United States of America, to the judges of the circuit court of the United States, for the second circuit and district of Vermont, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said circuit court before you, between the President, Directors, and Company of the Bank of the United States, plaintiffs, and Wyllys Lyman, George P. Marsh, John Peck, and John H. Peck, defendants, a manifest error hath happened, to the great damage of the said Wyllys Lyman, George P. Marsh, John Peck, and John H. Peck, as by their complaint appears; and it being fit that the error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ; so that you have the same at Washington on the first Monday in December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, at Washington aforesaid, this 16th day of October, in the year of our Lord one thousand eight hundred and forty-nine, and of the independence of the United States the seventy-fourth.

EDW'D H. PRENTISS, *Clerk.*

Filed October 16th, 1849. EDW'D H. PRENTISS, *Clerk.*

UNITED STATES OF AMERICA, *ss.*

[L. S.]

To the President, Directors, and Company of the Bank of the United States, (chartered by act of the legislature of Pennsylvania,) greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at Washington on the first Monday of December next, (1849,) pursuant to a writ of error filed in the clerk's office of the circuit court of the United States, for the second circuit and district of Vermont, wherein Wyllys Lyman, George P. Marsh, John Peck, and John H. Peck, are plaintiffs, and you are defendants in error, to show cause, if any there be, why the

judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, this 16th day of October, in the year of our Lord one thousand eight hundred and forty-nine.

SAM'L PRENTISS,
Judge of the circuit court of the United States aforesaid, for the district of Vermont.

UNITED STATES OF AMERICA, *Vermont district, ss.*

At Middlebury, in said district, on the 26th day of October, A. D. 1849, I served this precept on Sam'l S. Phelps, att'y of record for the defendants in error, by leaving in his hands a true and attested copy of this citation, together with this my return endorsed thereon. I also, on the same day, presented and showed the original to the said Sam'l S. Phelps.

Attest: D. S. CHURCH, *Deputy Marshal.*

Bill of fees—

500 miles travel, from Middlebury to Washington, at 5 c.	$25 00
Service fees - - - - - -	2 00
Copy of citation - - - - - -	0 50
	$27 50

William H. Miller being duly sworn, deposes and says, that he is a deputy marshal of the United States, in and for the eastern district of Pennsylvania; that he served the within citation on James Robertson, president, James S. Newbold, Herman Cope, and Thomas S. Taylor, trustees of the Bank of the United States, by giving them severally a copy, and by showing to them the original, this 2d day of November, A. D. 1849. WILLIAM H. MILLER.

Sworn and subscribed, this 2d day of November, A. D. 1849.
CHAS. J. HEAGLITT, *U. S. Com'r.*

$8 50 due U. S. M., Philadelphia.

UNITED STATES OF AMERICA,
Vermont district, to wit:

Pleas of the circuit court of the second circuit of the United States, at their term begun and holden at Rutland, within and for the Vermont district, on Wednesday, the third day of October, in the year of our Lord one thousand eight hundred and forty-nine, and of the independence of the United States the seventy-fourth, before the honorable Samuel Nelson, one of the associate justices of the Supreme Court of the United States, and the honorable Samuel Prentiss, district judge, within and for the Vermont district, judges of the said circuit court, according to the form of the statutes in such case made and pro-

The PRESIDENT, Directors, and Company of the Bank of the United States, plaintiffs,
vs.
JOHN PECK, Wyllys Lyman, John H. Peck, and George P. Marsh, defendants.

Be it remembered, that heretofore, to wit, at the term of our circuit court aforesaid, begun and holden at Rutland, within and for the said Vermont district, on the third day of October, in the year of our Lord one thousand eight hundred and forty-five, John Peck, Wyllys Lyman, John H. Peck, and George P. Marsh, all of Burlington, in said district, and citizens of the State of Vermont, were summoned to answer unto the President, Directors, and Company of the Bank of the United States, a corporation duly and legally created and established by the laws of the State of Pennsylvania, and located and transacting its business in the city of Philadelphia, in said State of Pennsylvania, the members of which said corporation, the plaintiffs aver, are citizens of the State of Pennsylvania, and of different States of this Union, other than the State of Vermont, in a plea of the case, for that whereas the said John Peck, Wyllys Lyman, John H. Peck, and George P. Marsh, heretofore, to wit, on the second day of March, in the year of our Lord one thousand eight hundred and forty-two, at Philadelphia aforesaid, accounted with the plaintiffs of and concerning divers sums of money from the said John, Wyllys, John H., and George P., before that time due and owing to the said plaintiffs, and then in arrear and unpaid; and upon such accounting the said John, Wyllys, John H., and George P., were then and there found to be in arrear and indebted to the plaintiffs in the sum of twenty thousand dollars, current money of the United States, and being so found in arrear and indebted to the plaintiffs, the said John Peck, Wyllys Lyman, John H. Peck, and George P. Marsh, in consideration thereof, afterwards, to wit, on the day and year last aforesaid, at Philadelphia aforesaid, undertook and faithfully promised the plaintiffs to pay them the said sum of twenty thousand dollars, when they, the said John, John H., Wyllys, and George P., should be thereto afterwards requested.

And also for that, whereas the said John, Wyllys, John H., and George P., the said defendants, heretofore, to wit, on the first day of March, in the year of our Lord one thousand eight hundred and forty-two, at Philadelphia aforesaid, were indebted to the said plaintiffs in the further sum of twenty thousand dollars, like current money of the United States, for so much money by the said defendants before that time had and received, to and for the use of the plaintiffs; and being so indebted, they, the said defendants, afterwards, to wit, on the day and year last aforesaid, at Philadelphia aforesaid, in consideration thereof, undertook and then and there faithfully promised the plaintiffs to pay them the said last mentioned sum of twenty thousand dollars, when they, the defendants, should be thereto afterwards requested; yet the said defendants, not regarding their said several promises and under-

takings so by them made as aforesaid, but contriving to deceive and defraud the plaintiffs in this behalf, have never paid to the plaintiffs the said sums of money in the said promises mentioned, or either or any part thereof, although often requested so to do, but so to do have hitherto wholly neglected and refused, and still do neglect and refuse, to wit, at Burlington aforesaid, to the damage of the plaintiffs, as they say, forty thousand dollars, to recover which, with just costs, they bring suit.

At which day, to wit, the said third day of October, in the year of our Lord one thousand eight hundred and forty-five, at Rutland aforesaid, here in court come the plaintiffs, by their attorney, Samuel S. Phelps, to prosecute their said suit; and the defendants, by their attorneys, Lyman, and Marsh, and Asahel Peck, appear and pray a continuance of their said cause until the next term of this court, to be holden at Windsor, within and for the said Vermont district, on the twenty-first day of May, in the year of our Lord one thousand eight hundred and forty-six; and it is granted, and the same day is given to the plaintiffs. And it is ordered by the court, that the plaintiffs file with the clerk of the court a specification of their claims against the said defendants by the first day of January, in the year of our Lord one thousand eight hundred and forty-six. And the said specification, filed in pursuance of the order aforesaid, is in the words following, to wit:

Messrs. John Peck, Wyllys Lyman, George P. Marsh, John H. Peck, to the Bank of the United States, Dr.

1838.			
April 4	To note due this	date	$35,500 00
July 24	To interest to	do ..... 3 months 20 days	650 83
	To balance due	do	36,150 83
	By payment	do	5,000 00
	To balance due	do	31,150 83
October 9	To interest to	do ..... 2 months 16 days*	394 58
	To balance due	do	31,545 41
	By payment	do	887 50
	To balance due	do	30,657 91
1839.			
Sept. 10	To interest to	do ..... 11 months 1 day	1,691 30
	To balance due	do	32,349 21
	By payment	do., 7,000 and interest refunded	7,006 13
	To balance due	do	25,343 08
1840.			
Jan'y 13	To interest to	do ..... 4 months 3 days	519 53
	To balance due	do	25,862 61
	By payment	do	1,314 75
	To balance due	do	24,547 86
March 11	To interest to	do ..... 1 month 27 days	233 21
	To balance due	do	24,781 07
	By payment	do	624 96
	To balance due	do	24,156 11
April 4	To interest to	do ..... 98 days*	*112 73
	To balance due	do	24,268 84
1839.			
April 4	To note due	do 35,500	
1840.			
April 4	To interest to	do ..... 12 months, 2,130*	
			37,630 00
	To note due	do	35,500 00
	Bal. due 4 April, 1840, as pr. acct. rendered 22 April, 1840		97,398 84
April 22	To interest to this date	..... 18 days	292 19
	To balance due	do	97,691 03
	By payment	do	415 00
	To balance due	do	97,276 03
May 10	To interest to	do ..... 18 days	291 83
	To balance due	do	97,567 86
	By payment	do	450 00
	To balance due	do	97,117 86
June 10	To interest to	do ..... 1 month 0 day	485 59

STATEMENT—Continued.

	To balance due	this date	$97,603 45
	By payment	do	750 00
	To balance due	do	96,853 45
June 17	To interest to	do ..... 7 days	113 00
	To balance due	do	96 966 45
	By payment	do	8,800 00
	To balance due	do	88,166 45
June 20	To interest to	do ..... 3 days	44 08
	To balance due	do ..... Carried forward	88,210 53
	To balance due	do ..... Brought forward	88,210 53
	By payment	do	365 63
	To balance due	do	87,844 90
August 10	To interest to	do ..... 1 month 21 days	746 68
	To balance due	do	88,591 58
	By payment	do	5,400 00
	To balance due	do	83,191 58
August 11	To interest to	d ..... 1 day	13 87
	To balance due	do	83,205 45
	By payment	do	465 00
	To balance due	do	82,740 45
August 18	To interest to	do ..... 7 days	96 53
	To balance due	do	82,836 98
	By payment	do	460 00
	To balance due	do	82,376 98
Sept. 19	To interest to	do ..... 1 month 1 day	425 61
	To balance due	do	82,802 59
	By payment	do	645 26
	To balance due	do	82,157 33
Sept. 25	To interest to	do ..... 6 days	82 16
	To balance due	do	82,239 49
	By payment	do	135 00
	To balance due	do	82,104 49
Sept. 26	To interest to	do ..... 1 day	13 68
	To balance due	do	82,118 17
	By payment	do	189 92
	To balance due	do	81,928 25
October 1	To interest to	do ..... 5 days	68 27
	To balance due	do	81,996 52
	By payment	do	175 08
	To balance due	do	81,821 44
Dec. 2	To interest to	do ..... 2 months 1 day	831 85
	To balance due	do	82,653 29
	By payment	do	1,650 00

STATEMENT—Continued.

		To balance due this date.....	$81,003 29
Dec.	8	To interest to do.....6 months 00 days	81 00
		To balance due do.....	81,084 29
		By payment do.....	500 00
1841.		To balance due do.....	80,584 29
Jan'ary	18	To interest to do.....1 month 10 days	537 23
		To balance due do.....	81,121 52
		To debt of J. M. Catlin et al., with interest to date, charged herein as directed per letter of John Peck to H. Cope, cashier, dated Burlington, 18th December, 1840, viz., amount of judgment obtained in New York, 19th Febr'y, 1839, with costs of suit..... $1841 36	
		Interest to 18th January, 1841..... 211 75	
			2,053 11
		To balance due this date.....	83,174 63
		By payment do.....	2,008 93
April	5	To balance due do.....	81,165 70
		To interest to do..... 2 months 18 days	1,055 16
		To balance due do.....	82,220 86
March	31	By payment do.....$350 00	
April	5	Do do.....1070 00	
			1,420 00
		To balance due do.....	80,800 86
	6	To interest to do.....3 days	40 40
		To balance due do.....	80,841 26
		By payment do.....	969 19
		To balance due do.....	79,872 07
	27	To interest to do.....19 days	252 93
		To balance due do.....	80,125 00
		By payment do.....	2,180 00
		To balance due do.....	77,945 00
May	10	To interest to do.....13 days	168 88
		To balance due do.....	78,113 88
		By payment do.....	3,000 00
		To balance due do.....	75,113 88
August	24	To interest to do.....3 months 14 days	1,301 97
		To balance due, carried forward.....	76,415 85
August	24	To balance due this date, to brought forward.....	76,415 85
		By payment do.....	4,540 00
		To balance due do.....	71,875 85
Sept.	17	To interest to do.....24 days	287 51
		To balance due do.....	72,163 36
		By payment do.....	582 71
		To balance due do.....	71,580 65
Oct'ber	27	To interest to do.....1 month 10 days	477 20

STATEMENT—Continued.

	To balance due this date		$72,057 85
	By payment do		24,570 30
	To balance due do		47,487 55
28	To interest to do	1 day	7 91
	To balance due do		47,495 46
	By payment do		2,000 00
	To balance due do		45,495 46
Nov'ber 2	To interest to do	5 days	37 91
	To balance due do		45,533 37
	By payment do		4,000 00
	To balance due do		41,533 37
4	To interest to do	2 days	13 84
	To balance due do		41,547 21
	By payment do		4,000 00
1842.	To balance due do		37,547 21
Feb'ry 19	To interest to do	3 months 15 days	657 08
	To balance due do		38,204 29
	By payment do		4,560 00
	To balance due do		33,644 29
24	To interest to do	5 days	28 04
	To balance due do		33,672 33
	By payment do		220 00
	To balance due do		33,452 33
March 11	To interest to do	15 days	83 63
	To balance due do		33,535 96
	By payment do		1,075 00
	To balance due do		32,460 96
12	To interest to do	1 day	5 41
	To balance due do		32,466 37
	By payment do		6,030 00
	To balance due do		26,436 37
23	To interest to do	11 days	48 47
	To balance due do		26,484 84
	By payment do		1,785 00
	To balance due, 23d March, 1842, as per account rendered 26th April, 1842		24,699 84
	Deduct payment of 15 per cent. on J. Falkner's notes for $1,595 received in New York, 2d September, 1837, and applicable to the debt of John Peck and others, but omitted in account as advised by letter to J. Peck, November 7, 1842	$478 50	
	Interest thereon from 2d September, 1837, 4y. 6m. 21d.	131 00	
			609 50

STATEMENT—Continued.

1843.	To balance due this date		$94,090 34
May 26	To interest to do 1 year 2 months 3 days		1,698 34
	To balance due do		25,788 68
	By payment do		3,470 00
	To balance due do		22,318 68
June 13	To interest to do 18 days		66 96
	To balance due do		22,385 64
	By payment do		5,394 16
	To balance due do		16,991 48
17	To interest to do 4 days		11 33
	To balance due do		17,002 81
	By payment do		3,088 80
	To balance due do		13,914 01
24	To interest to do 7 days		16 23
	To balance due do		13,930 24
	By payment do		1,528 74
	To balance due do	$12,401 50	12,401 50
Nov'ber 8	To interest to do	279 04	
	To balance due do as per account rendered	$12,680 54	
	Amount carried forward		12,401 50
	Amount brought forward		12,401 50
	Deduct for interest allowed on post note of the Bank United States, due 15th September, 1841, for $1,000 received from John Hockley, esq., for account J. Peck et al., 26th May, 1843, viz.:		
	Interest from 15th September, 1841, to 26th May, 1843, 1 year 8 months 11 days	$101 83	
	With interest thereon to 24th June, 1843	49	
			102 32
June 24	To real balance due this date		12,299 18
1846.			
January 1	To interest thereon to this date 2 years 6 months 8 days		1,861 25
			14,160 43
1837.			
June 4	To Lyman & Cole's note, dated Burlington, Vt., March 25th, 1837, payable on the first day of June following, at the Union Bank of the city of New York, to the order of John and John H. Peck, Wyllys Lyman, and George P. Marsh, and endorsed by them, severally. Discounted by the Bank of the United States in Philadelphia, April 6, 1837, for the use of the endorsees, and protested at New York, 3d June, 1837, for	$5,000 00	
August 18	To interest to this date 2 months 14 days	61 66	
	To balance do	5,061 66	
	By payment do	1,314 16	

STATEMENT—Continued.

August 18	To balance due this date		$3,747 50	
22	To interest to do	4 days	2 50	
	To balance do		3,750 00	
	By payment do		150 00	
	To balance do		3,600 00	
Nov'er 20	To interest to do	2 months 29 days	53 40	
	To balance do		3,653 40	
	By payment do		1,017 50	
	To balance do		2,635 90	
Dec'ber 26	To interest to do	1 month 6 days	15 81	
	To balance do		2,651 71	
	By payment do		303 46	
	To balance do carried forward		2,348 25	$14,160 43
1846.	Amount brought forward		2,348 25	14,160 43
January 1	To interest to do	8 years 6 days	1,129 50	
				3,477 75
	Balance due, January 1, 1846			17,638 18

E. E.

The foregoing pages exhibit the claim of the plaintiffs in the suit, Bank of the United States against John Peck, Wyllys Lyman, George P. Marsh, and John H. Peck, now pending in the circuit court of the United States for the Vermont district. The plaintiffs will also claim the above balance as due upon two notes, one dated April 1, 1836, for the sum of thirty-five thousand five hundred dollars, payable four years from date, at the Union Bank, New York, and signed by the four defendants; and the other dated March 25, 1837, for five thousand dollars, signed by Lyman and Cole, payable to the said four defendants, at said Union Bank, on the first day of June, 1837, and endorsed by said defendants.

At which day, to wit, the said twenty-first day of May, in the year of our Lord one thousand eight hundred and forty-six, at Windsor aforesaid, here in court come the plaintiffs, by their attorney, Samuel S. Phelps, aforesaid, to prosecute their said suit; and the said defendants, by their said attorneys, Lyman & Marsh, and Asahel Peck, come and defend the wrong and injury, when, &c., and for plea say, that they did not assume and promise in manner and form as the plaintiffs in their declaration have alleged, and of this they put themselves on the country; and the plaintiffs, by their attorney aforesaid, do the like; therefore, let a jury of good and lawful men of the State of Vermont, who are of kin neither to the plaintiffs nor to the defendants, come before the court for the trial of the issue aforesaid between the parties aforesaid.

And such further proceedings were had in said cause that, at the term of said court holden on the twenty-first day of May, in the year of our Lord one thousand eight hundred and forty-seven, at Windsor aforesaid, in court here come the plaintiffs, by their attorney, Phelps, further to prosecute their said suit; and the said defendants appear, by their attorneys, Rufus Choate, Lyman & Marsh, and Asahel Peck. And the jurors of the jury of which mention is just made, being called, come, to wit, William English, Lorenzo Trassell, Russel Brewster, Addison Slayton, Benjamin F. Webster, John Adams, Daniel Stearns, Andrew R. Adams, Samuel Trask, Samuel Bryant, Hiram Goddard, and Ebenezer Tracy, who, being empannelled and sworn to speak the truth concerning the premises, upon their oaths say, that the said defendants did assume and promise in manner and form as the plaintiffs in their declaration have alleged, and find for the plaintiffs to recover nineteen thousand one hundred and sixteen dollars and eighty-four cents damages and costs; which said verdict is taken, subject to the opinion of the court.

And because the court is not well advised of and concerning the premises of giving their judgment in and upon the verdict aforesaid, therefore further day thereof is given, to wit, from term to term until the term of this court to be holden at Windsor aforesaid, on the twenty-first day of May, in the year of our Lord one thousand eight hundred and forty-eight, as well to the plaintiffs as to the defendants.

At which day, to wit, the day and year last aforesaid, at Windsor

aforesaid, in court here, come the parties aforesaid, by their attorneys aforesaid, upon which the matters aforesaid having been seen, and by the court here fully understood, and mature deliberation being had thereupon, it is ordered by the court here, that the verdict in this cause taken be set aside, and that a new trial be granted therein. And now the said attorney for the plaintiffs moves the court for leave to amend the declaration by filing new counts, and for leave to file an additional specification; and it is granted. And the said new counts are in the words following, to wit:

1. And whereas, also, the said defendants afterwards, to wit, on the first day of January, A. D. one thousand eight hundred and forty-four, at Burlington, in said State of Vermont, were indebted to the plaintiffs in the further sum of twenty thousand dollars, current money of the United States, for so much money before that time lent and advanced to the said defendants at their special instance and request; and being so indebted, they, the defendants, in consideration thereof, afterwards, to wit, at Burlington aforesaid, undertook, and then and there faithfully promised the plaintiffs, to pay them the said last mentioned sum of money when they, the defendants, should be thereto afterwards requested.

2. And whereas, also, the said defendants, afterwards, to wit, on the day and year last aforesaid, at Burlington aforesaid, were indebted to the plaintiffs in the further sum of twenty thousand dollars, like current money of the United States, for certain securities for money, to wit, promissory notes, bills of exchange, and balances of account, before that time sold and delivered by the plaintiffs to the defendants, at the special instance and request of the defendants; and being so indebted, they, the defendants, in consideration thereof, afterwards, to wit, at Burlington aforesaid, on the day and year last aforesaid, undertook, and then and there faithfully promised the plaintiffs, to pay them the said last mentioned sum of money when they, the defendants, should be thereto afterwards requested.

3. And whereas, also, the said defendants, afterwards, to wit, on the day and year last aforesaid, at Burlington aforesaid, were indebted to the plaintiffs in the further sum of twenty thousand dollars, current money of the United States, for certain messuages, tenements, and premises, with the appurtenances, of the plaintiffs before that time bargained, sold, and conveyed, by the plaintiffs to the defendants, and at their, the defendants', special instance and request; and being so indebted, they, the defendants, afterwards, to wit, on the day and year last aforesaid, at Burlington aforesaid, in consideration thereof, undertook, and then and there faithfully promised the plaintiffs, to pay them the said last mentioned sum of money when they, the defendants, should be thereto afterwards requested.

4. And whereas, also, the said defendants, afterwards, to wit, on the day and year last aforesaid, at Burlington aforesaid, were indebted to the plaintiffs in the further sum of twenty-five thousand dollars, like current money of the United States, for certain chattels, credits, de-

mands, and securities, for money before that time sold and delivered by the plaintiffs to the defendants, at their, the defendants', special instance and request, and also for certain tenements, messuages, and premises, before that time bargained, sold, and conveyed by the plaintiffs to the defendants at their, the defendants', like special instance and request, and also for money by the plaintiffs, before that time, lent and advanced to the defendants at their like special instance and request, and also for other money before that time had and received by the defendants to and for the use of the plaintiffs; and being so indebted they, the defendants, in consideration thereof, afterwards, to wit, on the day and year last aforesaid, at Burlington aforesaid, undertook, and then and there faithfully promised the plaintiffs to pay them the said last mentioned sum of money when they, the said defendants, should be thereto requested. Yet the said defendants, not regarding their said several promises and undertakings so by them made as aforesaid, have never paid the said several sums of money, specified in their said several promises and undertakings in these additional counts mentioned, or either, or any part thereof, although often requested so to do; but to pay the same have wholly neglected and refused, and still do refuse, to the damage of the plaintiffs, as they say, twenty-five thousand dollars; to recover which they bring suit.

And the said additional specification, by the said attorney for the plaintiffs filed as aforesaid, is in the words and figures following, to wit: In addition to the matters specified in their former specification, the plaintiffs will give in evidence, and insist upon, a claim for certain property and effects formerly belonging to the branch of the Bank of the United States, located at Burlington, in the State of Vermont, consisting of sundry demands or securities for money, bills payable, promissory notes, and suspended debt, and also of the banking house at said Burlington, and a house and lot at Vergennes in said State; which said property and effects, having become the property of the plaintiffs, was by them sold to the defendants, in the month of March, one thousand eight hundred and thirty-six, and is more particularly described in the proposition of John Peck, in behalf of himself and the other defendants, submitted to the plaintiffs, and bearing date the 10th of March, 1836, a copy of which is appended hereto, and the original of which is on file in the office of the clerk of this court, attached to the commission for taking testimony in this cause; and also a further claim for the sum of ten thousand and twenty dollars, for money advanced and paid to the defendants on that occasion by the plaintiffs, and for which the defendants became liable to pay the plaintiffs.

"To the president and directors of the Bank of the United States.

(Referred, March 11, 1836, to committee on office with power.)

John Peck and Lyman & Marsh, and others, propose to purchase of the Bank of the United States the property of the office at Burlington, Vermont, as it was on the 2d day of March, 1836, upon the following terms, viz:

Bills discounted 3d March, 1836	-	$70,121 01		
Bills receivable same date	- -	2,133 46		
With average of interest	- -	- -	-	$72,254 47
McIntire & Burdick's debt	- -	24,128 12	At the face.	
McIntire & Blood "	- -	2,000 00		
Blood & Burdicks "	- -	1,600 00		
McIntire & Bean & Rolfe debt	-	3,000 00		
Gates & Co. "	-	23,795 28		
				54,523 40
Suspended debt	- - -	- -		5,000 00
Banking house and appurtenances, and house and lot in Vergennes	- -	- -		10,000 00
				$141,777 87

To be paid in four or five annual instalments, with 5 per cent. interest, and such security given as shall be satisfactory.

JNO. PECK, *for himself and others.*

PHILADELPHIA, 10*th March*, 1836.

And thereupon further day is given to the parties aforesaid to the next term of this court, to wit, from term to term until the term of this court to be holden at Rutland aforesaid, on the third day of October, in the year of our Lord one thousand eight hundred and forty-nine.

At which day, to wit, the said third day of October, in the year of our Lord one thousand eight hundred and forty-nine, at Rutland aforesaid, here in court come the plaintiffs, by their said attorney, Phelps, further to prosecute their said suit; and the said defendants, by their attorneys, Tracy and Lyman and Asahel Peck, appear and defend the wrong and injury, when, &c.; and for plea say, they did not assume and promise in manner and form as the plaintiffs in their declaration have alleged, and of this they put themselves upon the country; and the plaintiffs, by their attorney aforesaid, do the like.

And for further plea in that behalf, by leave of court for this purpose first had and obtained, the defendants say that the plaintiffs, from having and maintaining their action aforesaid, ought to be precluded and barred, because they say that the said supposed causes of action, in the said declaration mentioned, did not, nor did any or either of them, accrue at any time within six years next before the commencement of the plaintiffs' action aforesaid, and this the defendants are ready to verify; wherefore the defendants pray judgment if the plaintiffs ought to have or maintain their action aforesaid.

And as to the said causes of action in said declaration mentioned, except the said five thousand dollar note, for further plea in this behalf, leave of the court for this purpose being first had and obtained, the defendants say that the plaintiffs, from having and maintaining their action aforesaid, except as to said note last aforesaid, ought to be barred, because they say that the said supposed causes of action in the said decla-

ration mentioned, except said note last aforesaid, did not, nor did any or either of them, accrue at any time within six years next before the commencement of the plaintiffs' action aforesaid, and this the defendants are ready to verify; wherefore the defendants pray judgment if the plaintiffs, except as to said note last aforesaid, ought to have or maintain their action aforesaid.

And now the plaintiffs, by their attorney aforesaid, as to the several pleas of the defendants last above pleaded, reply and say, that the plaintiffs, by reason of anything in the said pleas alleged, ought not to be barred of having and maintaining their aforesaid action against the defendants, because they say that the said several causes of action, and each and every of them, did accrue to the plaintiffs within six years before the commencement of the present suit; and this they pray may be inquired of by the country; and the defendants, by their said attorneys, do the like.

And for further replication in this behalf, by leave of the court first had and obtained, the plaintiffs say they ought not to be barred, &c., because they say that the said defendants, within six years next before the bringing of the said suit, acknowledged the said several sums of money, and each of them, to be due to the plaintiffs, and promised to pay the same, and this they are ready to verify; wherefore, they pray judgment, &c.

Therefore, let a jury of good and lawful men, of the State of Vermont, who are of kin neither to the plaintiffs nor to the defendants, immediately come before the court, for the trial of the issues aforesaid. And the jurors of the jury of which mention is just made, being called, come, to wit, Augustus Hammond, Nathaniel K. Andrews, Archibald C. Shaw, Edwin Martindale, H. D. Todd, Lyman Batchelder, Orlin Smith, John Townsend, H. A. Sumner, Asel Durkee, Willard Ross, and Erwin Collins, who, being empannelled, and sworn to speak the truth concerning the premises, upon their oaths say, that the said defendants did assume and promise in manner and form as the plaintiffs in their declaration have alleged, and that the plaintiffs ought not to be barred; and find for the plaintiffs to recover twenty-one thousand six hundred twenty-one dollars and forty-seven cents, damages and costs.

Whereupon the record and matters aforesaid having been seen, and by the court here fully understood, it is considered by the court here that the said John Peck, Wyllys Lyman, John H. Peck, and George P. Marsh, did assume and promise in manner and form as the plaintiffs in their declaration have alleged, and that the plaintiffs ought not to be barred; and that the plaintiffs do recover of the said defendants twenty-one thousand six hundred twenty-one dollars and forty-seven cents damages, together with their costs of suit here taxed at two hundred and ten dollars and twenty-three cents.

Judgment entered this sixth day of October, in the year of our Lord one thousand eight hundred and forty-nine.

By order of court.

EDW'D H. PRENTISS, *Clerk*.

And the said Asahel Peck, attorney for the defendants aforesaid, afterwards, to wit, on the said sixth day of October, and during the term last aforesaid, brings into court his certain bill of exceptions, which is in the words following, to wit:

THE PRESIDENT, Directors, and Company of the Bank of the United States,
vs.
WYLLYS LYMAN, George P. Marsh, John Peck, and John H. Peck.

United States circuit court, second circuit, district of Vermont, October term, 1849.

This was an action of assumpsit; plea, the general issue and the statute of limitations, as per declaration and pleadings, which are referred to and made part of the case.

The plaintiffs' counsel, on trial, relied upon all the counts stated in the declaration, except the account stated and the amended specification, which are to be referred to as a part of the case. Trial by jury.

To sustain the issue, on the part of the plaintiffs, the counsel for the plaintiffs offered in evidence the testimony of Lloyd Mifflin, John Ramsey, Samuel Jaudon, and Thomas B. Taylor, with the several papers and exhibits thereto attached, and referred to in their testimony, which testimony was taken under a commission issued from this court, and which testimony, papers, and exhibits, are on file in said suit, and are hereby referred to, and incorporated with, and made part of, this bill of exceptions, together with the promissory note, dated April 1, 1836, for thirty-five thousand five hundred dollars, payable to "Samuel Jaudon, esquire, cashier," or order, four years from date, at the Union Bank, in the city of New York, signed by the defendants, and the note for five thousand dollars, dated March 25, 1837, signed by Lyman and Cole, payable to defendants, or order, on the first day of June, 1837, at the Union Bank, city of New York, which promissory notes are also annexed to said testimony on file, as aforesaid, and are referred to, and made part of, this bill of exceptions.

To the reading of which testimony, exhibits, and notes, the counsel for the defendants made the following objections:

1. To the reading of the said thirty-five thousand five hundred dollar note, upon the ground that it was not payable to the plaintiffs but to Samuel Jaudon, and not endorsed by said Jaudon.

2. Objected to the "explanatory memorandum" upon exhibit B, referred to in, and annexed to, the deposition aforesaid of said Mifflin, on the ground that the defendants were not, nor either of them, parties to, nor in any way connected therewith.

3. To the testimony of said Mifflin, under the fifth interrogatory, tending to prove that the consideration of said thirty-five thousand five hundred dollar note moved from the plaintiffs, and the practice of the plaintiffs in taking notes payable to the cashier; and to the testimony

of said Jaudon, under the 7th, 8th, and 9th interrogatories, tending to prove that the plaintiffs advanced the consideration of the said thirty-five thousand five hundred dollar note, shown to said witness Jaudon, and the other notes referred to by him, given by defendants at the same time, and that it was the property of the plaintiffs, and tending to prove the practice of the plaintiffs in taking notes thus payable; and, also, to all the evidence tending to prove the same facts, on the ground that the legal effect of the note could not be varied or controlled by parol evidence.

4. To the testimony of said Mifflin, under the 7th interrogatory, on the ground that neither parol evidence nor a copy of the instructions was the best evidence, and that the original should be produced; and objected to the evidence of said Mifflin, under the 8th interrogatory, on the ground that the original paper, sent to the Branch Bank at Burlington, should be produced.

5. The defendants objected to the testimony of said Mifflin, under the 10th interrogatory, tending to prove the signature of Wyllys Lyman to paper or exhibit marked E, on the ground that neither the acts of Lyman, done by him in his official capacity as director of the Branch Bank at Burlington, nor any knowledge derived by him in the performance of his duties as such director, could affect the other defendants, or in any way affect the rights of the defendants in this action; and also claimed that, if admissible, it would be evidence only against Lyman. But the court overruled the objections, and admitted the evidence generally, so as to affect all the defendants.

6. The defendants objected to the evidence of said Ramsey, under the 6th interrogatory on the direct examination relating to the ability of Silas E. Burrows, on the ground that the solvency or insolvency of said Burrows was immaterial, and also on the ground that the testimony of the witness, as given in his answer, is not legal evidence, tending to prove the inability or insolvency of said Burrows, the witness (as defendants insisted) stating no facts, but inferences merely.

7. The defendants objected to the testimony of Samuel Jaudon, under the third interrogatory, on the ground that the doings of the corporation, (parties to the sale,) could not be proved by parol.

8. The defendants objected to the evidence of said ——— Jaudon, under the 10th, 11th, 12th, and 13th interrogatories, on the ground that the same is irrelevant and immaterial, and on the ground that the power to negotiate the note or transfer the legal interest therein, is matter of law, and not a subject matter of proof.

9. The defendants objected to the testimony of said Jaudon, under the 17th interrogatory, on the direct examination, on the ground that the contract was in writing, and that parol evidence was not admissible. The court overruled all the objections, and the evidence was read to the jury.

All the depositions and schedules, exhibits and papers, thereto annexed, above mentioned, were read in evidence to the jury. The plaintiffs also introduced as a witness, Morton Cole, one of the signers of the five thousand dollar note aforesaid, whose testimony proved that

said note last aforesaid was executed by himself and Lyman, the other maker, as an accommodation note, that is, without consideration and for the accommodation of the payees in said note.

The plaintiffs also introduced a copy of the charter of the Bank of the United States, by the State of Pennsylvania, which is referred to as part of the case; and also introduced a letter from John Peck, dated May 30, 1844, which is also referred to as part of the case.

The defendants introduced the paper hereto annexed, and made part of the case, (marked X,) together with the testimony of Charles F. Warner, whose testimony proved that said paper was in the handwriting of Thomas Hockley, who is mentioned in the depositions introduced by the plaintiffs, and that said Hockley died in November, 1836, and continued to act as the agent for the plaintiffs, in the matters relative to the Branch Bank at Burlington aforesaid, up to the time of his death; and defendants claimed that this paper was furnished to them, (at the time of the sale by plaintiffs to defendants,) by said Hockley, as agent of the plaintiffs, as a list of the debts embraced in said sale, and that they bought, relying on that and the paper marked (O) annexed to the deposition of John Ramsey, and referred to in his answer to the third, and fourth, and fifth interrogatories by defendants, as furnished to defendants by said Ramsey, on behalf of plaintiffs, at the time of said sale, and on the faith of which they made the purchase, as defendants claimed.

The plaintiffs also introduced evidence tending to prove that this suit was prosecuted by the consent and by direction of Robertson and others, trustees.

No other evidence was introduced on either side.

The plaintiffs claimed to recover the amount of the balance of the account annexed to the deposition of Thomas B. Taylor, marked "W," and interest thereon, from the first of January, 1846, to the time of trial; that is $17,638 87, and interest thereon from January 1, 1846, to the time of trial.

The defendants' counsel insisted, and asked the court to instruct the jury:

1. That upon this evidence the plaintiffs was not entitled to recover.

2. That the $35,500 notes, given for the original purchase, were payable to Samuel Jaudon and not to the plaintiffs, and that as the notes were not endorsed by Jaudon, there could be no recovery in this action, in respect of the notes upon any of the counts in the declaration; and that there was no evidence in the case tending to prove an account stated between plaintiffs and defendants.

3. That the notes given by defendants to Samuel Jaudon, as aforesaid, are prima facie given in payment of the original purchase, and that, therefore, this action cannot be sustained in the name of the plaintiffs, either upon the notes or the consideration as evidenced by the notes, or upon the original contract of sale.

4. That if the notes were not to be treated as payment as matter of law, yet as the proof shows that the notes were given in payment, that

the plaintiffs could not recover; and if the court would not so instruct the jury, then to instruct them that if they should find that the notes were given and received in payment, then the plaintiffs could not recover.

5. That if the notes were not given in payment, yet as it appears from the evidence that they were assigned to Robertson and others, before the commencement of the action, and still the property of said Robertson and others, that the notes thereby operate as payment on an extinguishment or suspension of the original cause of action, and that such would be the effect if the jury so found the facts, and that in that event the plaintiffs could not recover.

6. That the plaintiffs can not recover on the original contract or consideration without bringing into court all the notes, or showing that such as are not brought into court have been given up to defendants, more especially as it appears that the notes were given payable to a third person, and have been assigned.

7. That there can be no recovery for the real estate without showing a conveyance to defendants by deed, or some conveyance of the real estate, and that as the plaintiffs had alleged a conveyance, the proof without evidence of such conveyance did not support the declaration, and that the payments made must be applied to the items of plaintiff's account, legally proved, and not to the items for real estate, unless found by the jury to have been specially made upon the items for real estate.

8. That the plaintiffs can not recover upon the $5,000 note while it appears to have passed by assignment by plaintiffs to Robertson and others, endorsed in blank by defendants and Robertson and others, still the owners, and also for the reason that it appears to be endorsed to M. Robertson, and the legal title still in him and out of the plaintiffs.

9. The defendants' counsel also insisted and claimed that if the plaintiff was entitled to recover, that the amount of the three securities or debts against J. Truesdell and Son, amounting to $4,884 48, and two securities or debts against Silas E. Burrows and J. Truesdell and Son, amounting to $2,536 86, contained in schedule as exhibit (O) referred to in the testimony of John Ramsey, should be deducted from the plaintiffs' claim, which securities or debts the plaintiffs claimed were purchased by defendants as subsisting and valid debts, and that they had been compromised and discharged by the plaintiffs; and asked the court to instruct the jury that if they should so find the facts, to deduct the amount of such debts, or such or so much of them as they should find were so purchased by defendants and compromised and discharged by plaintiffs, from the amount of the plaintiffs' claim; and if the court did not so instruct them, then to instruct them to deduct so much as they should estimate the debts to have been worth at the time of such purchase, which were discharged by the plaintiffs; and that at all events the defendants were entitled to have deducted the amount or value of the note taken by plaintiffs in the compromise of the Burrows debt.

10. The defendants further insisted and asked the court to instruct the jury, that it was a question of fact for them to find whether the de-

fendants, or either of them, had knowledge of the condition of these debts, or whether at the time of the purchase, said debts, or either of them, had been compromised and discharged; and that if they should find that Wyllys Lyman, and John Peck, or either of them, had knowledge of the condition of said debts, and that they had been compromised and discharged, or either of them, at the time of the purchase, and that they derived such knowledge by and while acting in their official capacity as directors, or as committee of said Branch Bank at Burlington, that such knowledge would not affect the other defendants, or defeat or affect the right of the defendants, to have a deduction from the plaintiffs' claim on account of said debts as aforesaid.

The court refused to instruct the jury agreeably to the defendants' first request, to which the defendants tendered their exceptions, which are allowed and sealed by the court.

Upon the points raised in the second request by the defendants, the court charged the jury that the action was not brought, nor did the plaintiffs seek to recover upon the $35,500 notes, and that there could be no recovery upon said notes, as the same were payable to Samuel Jaudon, and had not been endorsed by him, and that the evidence did not tend to prove an account stated with the plaintiffs, but with Robertson and others, trustees, to whom the debt had been assigned, and who were the owners thereof at the time.

In answer to the third request of the defendants, the court refused to charge as requested, and charged the jury that the notes given at the time of the purchase were not prima facie payment; that as the notes were given to Samuel Jandon as agent of the plaintiffs, they were in judgment of law the property of the bank, and for this purpose the same as if given payable to the plaintiffs. That the note in one sense may be considered as prima facie payment, until it reaches maturity. It suspends the remedy till then. To which refusal of the court to charge as requested the defendants tendered their bill of exceptions, which is allowed, and signed and sealed by the court.

In answer to the fourth request the court refused to charge as requested by defendants, and charged the jury, that it was a question of fact for them to find whether the notes were given and received in payment and satisfaction of the debt or original consideration, and that if so the plaintiffs could not recover. That in order to operate as a satisfaction, they must have been given and received as actual payment; that if goods are sold and bills receipted by the vendor "received payment by note," that is no payment; that means payment when the note is paid, and is not payment or satisfaction until such note is paid. That the rule is, that the giving of a note is no satisfaction of the original debt or consideration, unless there is an agreement that the note shall be in payment, and that the question in this case is, whether at the time of the purchase the parties superadded an agreement that the notes should be in satisfaction; if not, then they would not operate as a satisfaction. To which refusal of the court to charge the jury as requested,

and to the charge as given, the defendants tender their bill of exceptions, which is allowed, and signed and sealed by the court.

The court refused to charge the jury as requested in the defendants' fifth request, and charged the jury that Robertson and others were assignees and trustees for the benefit of creditors, and held the debt for the benefit of creditors of the bank, and that the suit was instituted by the plaintiffs, (the bank) at the instance and for the benefit of creditors, and the case is the same as if the law permitted the suit to be brought, and the same had been brought, in the name of such trustees. To which refusal of the court to charge the jury as requested, and to the charge as given to the jury, the defendants tender their bill of exceptions, and the same is allowed, and signed and sealed by the court.

The court refused to charge the jury as requested in the defendants' sixth request, and did instruct the jury, that although the two intermediate notes given at the time of the purchase were not accounted for, yet as the plaintiff conceded that they had been paid by the defendants, the legal presumption was that they had been given up to the defendants; that the law obliges a party to give up a note when paid, and that the burden lay on the defendants to show that the notes were outstanding and endorsed before due under such circumstances; that the holders were *bona fide* holders before the defendants could claim that the notes are outstanding, or object that the notes are not brought into court. To this refusal of the court to instruct the jury as requested, and to this instruction of the court, the defendants tender their bill of exceptions, and the same is allowed, and signed and sealed by the court.

The court refused to charge the jury agreeably to the seventh request, and charged the jury that it was objected by the defendants that the plaintiffs could not recover the items for real estate without showing a conveyance of the real estate; that this objection would be well founded if the contract was executory, but that this contract was executed, and therefore the plaintiffs might recover without showing a conveyance of the real estate; and that, without showing such conveyance, the proof supported the declaration in this respect. To the refusal of the court to instruct the jury as requested, and to the instructions as given, the defendants tender their bill of exceptions; which is allowed, and signed and sealed by the court.

The court refused to charge the jury agreeably to the 8th request, and charged the jury that, where a party who is the holder of a note has transferred it for purposes of collection, and it is not paid, but is found in the possession of the original holder, he can recover as he is remitted to his original rights, notwithstanding the endorsement, whether stricken out or not: and that another answer to defendants' objection was that if not paid the plaintiffs may give it up, and recover upon the original consideration. To this refusal of the court to instruct the jury as requested, and to the instructions as given, the defendants tender their bill of exceptions, and the same is allowed, and signed and sealed by the court.

The court refused to instruct the jury agreeably to the 9th and 10th

request of the defendants, and instructed them that it was a question whether the plaintiffs sold the debt of Truesdell & Son, as it stood upon the books, and the same as to the debt of Silas E. Burrows, or whether defendants bought these debts with a full knowledge of the circumstances of these debts that it appeared that, in pursuance of instructions of the parent bank to the branch bank, that it was the duty of the branch bank to make semi-annual returns, showing what debts were good, and what bad, and what were considered desperate; that in June, 1835, and in November 1835, returns were made, and in that of June, 1835, there is a memorandum opposite the Truesdell debt: "This balance due after compromise;" and opposite the Burrows debt is put down "compromised at the New York office," and a similar entry in the return of November, that it is claimed by defendants that, as those debts are put in at the original amount in the list, it is a representation that the debts are due; but that the answer to this is, that Lyman and Peck; were directors at the Burlington branch, and are to be presumed to have been cognziant of the condition of these debts; and further instructed the jury, that as it appeared that Lyman and Peck knew the fact of the compromise and condition of these debts at the time of the purchase, although the defendants' objections would be well founded if notice to Lyman and Peck was not notice to the other defendants, yet notice to Lyman and Peck was in law notice to all the defendants, and their knowledge was to be in law imputed to the other defendants; and inasmuch as the purchasers knew at the time of the purchase that these debts had been compromised, the bank *were* not bound to make any deduction on account of these debts and that if the plaintiffs recovered, they were entitled to recover the amount of the balance of $17,638 87, as by the account annexed to the deposition of Thomas B. Taylor, marked "W," and interest thereon, from January 1, 1846, to time of trial. To which refusal of the court to charge agreeably to the 9th and 10th requests, and to the charge of the court as given, the defendants tender their bill of exceptions, which exceptions are allowed, and signed and sealed by the court. The jury returned a verdict for the plaintiffs, for amount of said account last mentioned and interest, amounting to $21,621 47. To all which several decisions of the court, and refusal to instruct the jury as requested, and to the instructions of the court as given to the jury, the defendants tendered exceptions and prayed that the same be allowed, and which were severally allowed, and signed and sealed by the court.

S. NELSON, [SEAL.]
ASAHEL PECK,
Att'y and counsel for defendants.

The execution of this commission appears in certain schedules hereunto annexed. Witness our hands and seals, this seventeenth day of September, A. D. one thousand eight hundred and forty-six.

WILLIAM RAWLE, [SEAL.]
WM. A. PORTER, [SEAL.]
Commissioners.

Expense of executing this commission:

Commissioners' fees, fifty dollars each - - - - -	$100 00
Clerk's fees, thirty dollars - - - - - - -	30 00
	$130 00

WILLIAM RAWLE,
WM. A. PORTER,
Commissioners.

UNITED STATES OF AMERICA,
District of Vermont, to wit:

The President of the United States, to William Rawle and William A. Porter, esquires, of the city and county of Philadelphia, in the State of Pennsylvania, greeting:

Know ye, that we, in confidence of your prudence and fidelity, have appointed you, and by these presents do give unto you, or either of you, full power and authority, diligently to examine all witnesses whatsoever, upon certain interrogatories, to be exhibited to you as well on the part of the Bank of the United States, plaintiff, as on the part of John Peck, Wyllys Lyman, John H. Peck, and George P. Marsh, all of Burlington, in the district of Vermont, defendants; and on the part of the Bank of the United States, plaintiff, as on the part of Wyllys Lyman, Elias Lyman, Morton Cole, John Peck, John H. Peck, and George P. Marsh, defendants, all of Burlington, in the said district of Vermont, or either of them; and therefore, we command that, at certain days and places to be appointed by you, or either of you, for that purpose, you do cause the said witnesses to come before you, or either of you, and then and there examine each of them apart, upon said interrogatories, on their several and respective corporeal oaths, first taken before you according to law; and that you do take such their examinations, and reduce the same into writing; and when you shall have so taken them, you are to send them to us in our circuit court, of the second circuit of the United States, in the said Vermont district, next to be holden at Rutland, within and for the said Vermont district, on the third day of October next, together with the said interrogatories and this commission closed up, under your or either of your hands and seals, distinctly and plainly set.

And it is further ordered, that notice of the time and place of taking the said examinations be duly given to Mr. George P. Marsh, of Washington, D. C., he being of counsel for the defendants in the above entitled suits.

And we further command, that before you, or either of you, act in, or be present at the swearing or examining of any witness to be produced and examined by virtue of this commission, you do, or one of you, take the oath first specified in the schedule hereunto annexed.

And we further command, that all and every the clerk or clerks to be employed in taking, writing, transcribing or engrossing the deposition or depositions of witnesses to be examined by virtue of these presents,

shall, before he or they be permitted to act as clerk or clerks as aforesaid, or be present at such examination, severally take the oath last specified in the schedule hereunto annexed; and we give you, or either of you, full power and authority to administer such oath to such clerk or clerks, according to law.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at Windsor, in the said Vermont district, this first day of June, in the year of our Lord one thousand eight hundred and forty-six, and of the independence of the United States the seventieth.

EDW'D H. PRENTISS, *Clerk.*

The clerk's oath.

You shall truly, faithfully, and without partiality to any or either of the parties to this cause, take and write down, transcribe and engross, the deposition of all and every the witness and witnesses produced before and examined by the commissioner named in the commission hereunto annexed, as far forth as you are directed and employed by said commissioner to take, write down, transcribe, and engross the said depositions, or any of them.

CITY OF PHILADELPHIA, *ss:*

Before me, the subscriber, an alderman for the city of Philadelphia, personally appeared William Henry Rawle, esq., who being duly sworn, says, that he will truly, faithfully, and without partiality to any or either of the parties to this cause, take and write down, transcribe and engross, the deposition of all and every the witness and witnesses produced before, and examined by, the commissioners, William Rawle and William A. Porter, esquires, named in the commission hereto annexed, as far forth as I am directed and employed by said commissioners to take, write down, transcribe, and engross the said depositions or any of them.

WM. HENRY RAWLE.

Sworn and subscribed before me, September 10th, 1846.

THOMAS D. SMITH, *Alderman,*

The commissioner's oath.

You shall, according to the best of your skill, truly, faithfully, and without partiality to any or either of the parties in this case, take the examination and examinations of all and every the witness and witnesses produced and examined by virtue of the commission hereunto annexed, upon the interrogatories now

CITY OF PHILADELPHIA, *ss:*

Before me, the subscriber, an alderman for the said city, personally appeared William Rawle, esq., who being duly affirmed, and also

personally appeared William A. Porter, esq., who being duly sworn, respectively say, that they will, according to the best of their skill, truly, faithfully, and without partiality to any or either of the parties in this case, take the examination and examinations of all and every the witness and witnesses produced and examined by virtue of the commission hereunto annexed, upon the interrogatories now to be produced.

WILLIAM RAWLE,
WM. A. PORTER.

Affirmed to by Wm. Rawle, esq., and sworn to by Wm. A. Porter, esq., and subscribed before me this 10th September, A. D. 1846.

THOMAS D. SMITH, *Alderman*.

Depositions of witnesses produced, sworn, and affirmed, respectively, and examined by virtue of the annexed commission on the eleventh, twelfth, fourteenth, and fifteenth days of September, in the year of our Lord one thousand eight hundred and forty-six, at the office of James Robertson, esquire, and others, trustees of the Bank of the United States, on the south side of Chesnut street, between Fourth and Fifth streets, in the city of Philadelphia, before William Rawle and William A. Porter, the commissioners named in the annexed commission, in two certain causes now pending in the circuit court of the second circuit of the United States, in the district of Vermont, in one of which the Bank of the United States is plaintiff, and John Peck, Wyllys Lyman, John H. Peck, and George P. Marsh, all of Burlington, in the district of Vermont, are defendants; and in the other of which the said Bank of the United States is plaintiff, and Wyllys Lyman, Elias Lyman, Morton Cole, John Peck, John H. Peck, and George P. Marsh, are defendants, all of Burlington, in the said district of Vermont.

Lloyd Mifflin, of the county of Philadelphia, gentleman, aged 60 years or thereabouts, a witness produced on the part of the plaintiffs, being duly affirmed according to law, being conscientiously scrupulous of taking an oath, answers as follows to the interrogatories exhibited on the part of the plaintiffs:

1. First interrogatory on the part of the plaintiffs:

Do you know the parties, plaintiffs and defendants, or either and which of them? If aye, how long have you known them, or either and which of them?

To the first interrogatory he answers as follows:

I have known the Bank of the United States ever since its existence. I am not aware that I have any personal knowledge of any of the defendants; I think I saw John Peck at the bank once or oftener, in March, 1836.

2. Second interrogatory on the part of the plaintiffs:

Were you at any time in the employment of the Bank of the United States? If yea, in what capacity, and during what period of time?

To the second interrogatory he answers as follows:

I was in the employment of the Bank of the United States, from the latter end of October, 1829, till the latter end of October, 1837; I had the special charge of the suspended debt and real estate department, and from the last mentioned date till I left the bank in May, 1839, I was employed in various capacities in the service of the bank; principally in assisting in conducting the correspondence of the president and cashier-in-chief.

3. Third interrogatory on the part of the plaintiffs:

Who was the cashier-in-chief of the said bank while you were in its service? If there were more than one, name them, and the periods for which they respectively served.

To the third interrogatory he answers as follows:

There were several cashiers-in-chief during the time I was in its service. When I entered the bank, William McIlvaine was cashier-in-chief; he continued till the autumn of 1832, when he was succeeded by Samuel Jaudon, who continued in the office till the autumn of 1837, when he was succeeded by Joseph Cowperthwait, who still occupied the office when I left the bank.

4. Fourth interrogatory on the part of the plaintiffs:

Have you any knowledge of a sale made by the Bank of the United States, of its property and effects at the branch of the said bank at Burlington, Vermont, to the defendants, or any of them? If aye, state all that you know concerning the same.

To the fourth interrogatory he answers as follows:

I know that there was a sale made of the property and effects of the branch of the Bank of the United States at Burlington, Vermont, to John Peck and others, in March, 1836. I believe the others concerned in the purchase to have been Wyllys Lyman, John H. Peck, and George P. Marsh, they having signed the notes given for the purchase money.

The defendants here object to parol evidence, as to the terms of the contract, on the ground that the contract was in writing.

The witness proceeds to testify as follows, under the above objections:

The aggregate amount of the cost on the books of the bank, of the property and effects embraced in the contract, was one hundred and sixty-five thousand eight hundred and seventy-eight dollars and sixty-nine cents, ($165,878 69.) I have made a mistake of two hundred dollars; it should be two hundred dollars more; the office estimate of the value was one hundred and forty-seven thousand five hundred and forty-seven dollars and twelve cents, ($147,547 12,) the difference between these sums, being the estimated loss on the suspended debt and real estate included in the sale; the consideration offered by the parties, and accepted by the bank, was one hundred and forty-one thousand seven hundred and seventy-seven dollars eighty-seven cents, ($141,777 87,) payable in instalments, with five per cent. interest, and with satisfactory security.

William Rawle, Wm. A. Porter, Commissioners. L. Mifflin.

I annex to my deposition a statement marked "A," verified by my signature, which I request may be taken as part of my deposition.

The defendants object to the admission in evidence of the statement above referred to.

The witness proceeds to testify as follows:

I also annex to my deposition, and request it may be taken as part of the same, a paper marked "B," verified by my signature, being the original proposition for the purpose of the purchase of the property of the Bank of the United States, heretofore referred to by me, dated Philadelphia, 10th March, 1836, and signed John Peck, for himself and others, to which is appended a memorandum made by myself, for the information of the board of directors of the parent bank, when acting on said proposition.

The defendants object to the statement made by the witness for the information of the board of directors, and appended to the proposition above referred to, and endorsed "explanatory memorandum."

5. Fifth interrogatory on the part of the plaintiffs:

The witness being shown the note hereto annexed, marked "E," is asked, do you know any thing concerning this note? If aye, state all you know concerning it.

To the fifth interrogatory the witness answers as follows:

The note referred to is, to the best of my knowledge and belief, one of the notes which were given for the purchase money aforesaid; the fact of its being made payable to the cashier, or order, is in accordance with the practice of the bank.

The defendants object to any evidence of the customs or practice of the bank.

The witness proceeds to testify as follows:

In accordance with the practice of the bank, in taking promissory notes for debts due to it, and especially notes received for sales of the property and effects of its branches—

I annex to my deposition a paper, marked "E," verified by my signature, and which I request may be taken as part of my answer.

The defendants object to the admission in evidence of the note referred to, on the ground of variance from the specification filed of record.

6. Sixth interrogatory on the part of the plaintiffs:

Do you know whether or not the defendants, or any and which of them, were at any time, and when, directors of the branch at Burlington, Vermont?

To the sixth interrogatory the witness answers as follows:

John Peck and Wyllys Lyman were elected directors of that branch on the 20th May, 1834, and no subsequent election having taken place, they would accordingly, by a provision in the charter of the bank, continue in that station until the close of the branch on the 1st of September, 1835. As directors of the branch, they had better means of infor-

mation as to the true character and probable value of each item of debt at that branch, than any director or officer of the parent bank.

7. Seventh interrogatory on the part of the plaintiffs:

What instructions, if any, were given by the parent bank to the branch at Burlington, Vermont, upon the subject of reporting the condition of the branch? Annex, if you can, a copy of these instructions.

To the seventh interrogatory the witness answers as follows:

Each of the branches and agencies of the bank was required, by a general circular of instructions from the parent bank, to report to it semi-annually, on the first days of June and December, a list in detail of all the real estate and suspended debt at each branch or agency, classified by a committee of its directors, with the aid of its president and cashier, under the three several heads of good, doubtful, and bad; with an estimate also to be made by them of the probable loss of principal on each debt in the doubtful and bad classes, as also of the probable value of the real estate. The said general instructions also required that such of the bad debts and other items of account on the list of the third class, as said committee and officers considered worthless and desperate, should be by them distinguished by affixing to them the letter "D," in red ink; the said committee were also required to note opposite to each debt its leading circumstances and the progress made in its settlement. In accordance with the above mentioned instructions, returns of the suspended debt and real estate, at the office at Burlington, at the semi-annual period of June 1, 1835, purporting to be signed by T. Hockley, cashier, and Wyllys Lyman and John Bradley, committee, were received at the bank.

I annex to my deposition a circular, marked "G," verified by my signature, and which I request may be taken as a part of my answer, being a copy of the one referred to in my answer to this interrogatory.

The defendants object to the instructions being proved by a copy or by parol evidence, as not being the best evidence that the nature of the case will admit.

8. Eighth interrogatory on the part of the plaintiffs:

Do you know whether or not a copy of the circular referred to was sent to the branch at Burlington?

The defendants object to this question on the ground that parol evidence is inadmissible.

To the eighth interrogatory the witness answers as follows:

It was, to the best of my knowledge and belief.

9. Ninth interrogatory on the part of the plaintiffs:

The witness being shown two papers hereto annexed, marked "E 1" and "E 2," is asked to state if he knows what they are and where they came from.

To the ninth interrogatory the witness answers as follows:

I know the papers referred to well. The paper marked "E 2," contains the list of suspended debt and real estate at the branch at Bur-

lington, and the paper marked "E 1," contains a recapitulation of the said lists. They, together, constitute the returns of the suspended debt and real estate at that office, on the 1st of June, 1835, in accordance with said circular of instructions. I identify the papers referred to by affixing my signature. They came from the office at Burlington.

10. Tenth interrogatory on the part of the plaintiffs:

If you know of any thing else of importance in this cause, state the same fully.

To the tenth interrogatory the witness answers as follows:

On referring to the papers, marked "E 1" and "E 2," in my answers to the next preceding interrogatory, the following debts are found therein.

The defendants object to any evidence touching the debts above spoken of.

The witness proceeds to testify as follows:

The name of Wyllys Lyman, subscribed to the paper marked "E 1," I believe to be the proper handwriting of the defendant of that name in this cause. To the best of my knowledge and belief, there was no guarantee by the bank upon the sale of the property and effects of the Branch Bank at Burlington.

1. First cross interrogatory on the part of the defendants:

State whether there was a return made by the cashier of the Branch Bank at Burlington subsequently to the one referred to by you; and if so, when; and if so, please refer to it.

To the first cross interrogatory the witness answers as follows:

There was a return made, dated the 30th of November, 1835; it was postmarked on the 12th of December of that year, and must have been received shortly after that time. I know it was received before the first of the following January. I annex the said return to my deposition, verified by the letter "H," and by my signature on each sheet of the said return.

2. Second cross interrogatory on the part of the defendants:

State whether Thomas Hockley, after the Branch Bank at Burlington closed, was the agent of the bank in closing the concerns of that branch; and if so, how long.

To the second cross interrogatory the witness answers as follows:

He was the agent of the bank for closing the concerns of the branch at Burlington from the first of September, 1835, until October, 1836, and how much longer I know not.

The witness, at his own request, corrects an error in his answer to the fourth interrogatory in chief, as follows: I was in error in stating that I had made a mistake of two hundred dollars.

L. MIFFLIN.

John Ramsey, of the city of Philadelphia, clerk, aged about forty-six years, a witness produced on the part of the plaintiffs, being duly

1870.

sworn according to law, answers as follows to the interrogatories exhibited on the part of the plaintiffs:

1. First interrogatory on the part of the plaintiffs:

Do you know the parties to these suits, or either, and which of them?

To the first interrogatory the witness answers as follows:

I am familiar with the corporate existence of the Bank of the United States, and have been acquainted with all the trustees prior to the assignment of the bank to them on the 4th of September, 1841. I have known John Peck, one of the defendants, since about the 10th of June, 1840; John H. Peck since August, 1841; Wyllys Lyman since October, 1844. I have no acquaintance with any of the other defendants.

2. Second interrogatory on the part of the plaintiffs:

Were you at any time, and when, and in what capacity, in the employment of the Bank of the United States, and of the trustees of the said bank?

To the second interrogatory the witness answers as follows:

I was elected a clerk in the Bank of the United States in May, 1839, and was placed in the department of the suspended debt and real estate of the bank, and so continued till its assignment of the 4th of September, 1841, and have been retained since that time by the trustees in the same department.

3. Third interrogatory on the part of the plaintiffs:

A note for five thousand dollars, drawn by Lyman & Cole in favor of, and endorsed by, John and John H. Peck, Wyllys Lyman, and George P. Marsh, dated Burlington, March 25, 1837, payable on the first day of June following, hereto annexed, marked "I," being shown to the witness, he is asked: Do you know anything of the circumstances under which the Bank of the United States became the owners of this note? If so, state the same fully.

To the third interrogatory the witness answers as follows:

Amongst the notes received from the defendants, in settlement of the purchase by them, on the 10th of March, 1836, of the assets at Burlington, Vermont, was one for principal, thirty-five thousand five hundred dollars, ($35,500,) and one for interest, thirty-five hundred and fifty dollars, ($3,550;) both matured and became payable on the 1st and 4th of April, 1837—together, thirty-nine thousand and fifty dollars, ($39,050.) When these notes matured the makers were not prepared to pay them, and therefore applied to the bank, by letter, dated 6th of March, 1837, (which letter we are unable to find, but know the fact of its reception from a reference to it on the minutes of the bank,) to learn whether or not the bank would discount for them some business notes, upon the understanding that the proceeds of the discount should be exclusively applied to the making up of the sum they were likely to be deficient for the payment of their said two notes for thirty-nine thousand and fifty dollars, ($39,050.) The makers of the notes to which I refer are the defendants in these causes.

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The bank, in reply to the said letter, informed them, under the date of 18th March, 1837, a copy of which is hereto annexed, marked "J," that it would discount for them good business paper, for the purpose mentioned, to an amount not exceeding in the whole fifteen thousand dollars, ($15,000.) Accordingly, the following mentioned notes were presented by the defendants in these suits, and discounted by the bank, on the 6th of April, 1837:

1. Lyman and Cole, being the note referred to, marked "1," for five thousand dollars, ($5,000;) proceeds of discount, four thousand nine hundred and forty-eight dollars and five cents, ($4,948 05.)

2. Smith, McIntire, and Company's note, four thousand dollars, ($4,000;) proceeds, thirty-eight hundred and ninety dollars and thirteen cents, ($3,890 13.)

3. Another note of the parties last named, for three thousand dollars, ($3,000;) proceeds, twenty-nine hundred and forty-eight dollars and forty cents, (2,948 40.)

4. John M. Catlin's note for fifteen hundred dollars, ($1,500;) proceeds, fourteen hundred eighty-four dollars and sixty-seven cents, ($1,484 67.)

The proceeds of these notes, amounting to thirteen thousand two hundred and seventy-one dollars and twenty-five cents, ($13,271 25,) were then credited, on the books of the bank in Philadelphia, to the agency of the Bank of the United States in New York, as a deposit or payment to it of so much, by Peck and others, on account of their said two notes for thirty-nine thousand and fifty dollars, ($39,050,) due on the 1st and 4th of April, 1837, at that agency. Notice of this payment or deposit was then given to said agency, and the residue of the said two notes for thirty-nine thousand and fifty dollars, ($39,050,) say twenty-five thousand seven hundred and seventy-eight dollars and seventy-five cents, ($25,778 25,) was paid by Peck and others to the said agency at New York, and the original notes taken up by them. The two notes of Smith, McIntire, and Company, discounted as above mentioned, were paid in full, while that of Lyman and Cole, the note referred to, marked "J," and that of John M. Catlin for fifteen hundred dollars, both discounted for the same purpose, were protested for non-payment at maturity.

4. Fourth interrogatory on the part of the plaintiffs:

Were you present at any conversation between Mr. Herman Cope, one of the trustees of the Bank of the United States, and Mr. John Peck, one of the defendants, in relation to the said note for five thousand dollars ($5,000)? If aye, state when and where the said conversation took place, and relate the same particularly.

To the fourth interrogatory the witness answers as follows:

On the 2d of December, 1840, Mr. Herman Cope, superintendent of the suspended debt and real estate department of the Bank of the United States, in writing, to Mr. John Peck, a copy of which letter—

The defendants object to proving the contents of the letter either by parol or by copy.

The witness proceeds to testify as follows:

—a copy of which letter, marked "K," is hereto annexed, expressed a wish that Mr. John M. Catlin's note for fifteen hundred dollars, ($1,500,) one of those referred to, in my answer to the third interrogatory, as having been discounted by the bank on the 6th of April, 1837, and at maturity protested for non-payment, should be put in a proper train for settlement; to which Dr. Peck replied on the 18th of December, 1840, the original letter referred to, marked "L," is hereto annexed, saying that "the Catlin paper of fifteen hundred dollars ($1,500) may be added to our present debt," and accordingly it was so "added," including the accrued interest to the general account of John Peck and others, on the 18th of January, 1841; but there still remained unsettled the balance due upon the note of Lyman and Cole for five thousand dollars, ($5,000,) discounted by the bank under precisely similar circumstances with John M. Catlin's note above mentioned.

This balance formed a separate account on the books of the bank. Some time subsequent to the assignment by the bank of the 4th September, 1841, I was present at an interview, in the Bank of the United States, between Dr. John Peck and Mr. Herman Cope, one of [the] trustees under the assignment above mentioned, during which Mr. Cope proposed that the balance due upon the note of Lyman and Cole, originally for five thousand dollars, ($5,000,) should be charged to the general account of John Peck and others, as had been done in the case of John M. Catlin's note for fifteen hundred dollars, ($1,500.) To this proposition Dr. Peck replied by expressing his preference that this balance should continue, as a matter of convenience to him, to remain in the separate account. In conformity with this wish of Dr. Peck the balance was permitted to remain upon the trustee's books in its separate form, as it had been rendered, together with the general account, in Mr. Cope's letter to John Peck, dated 12th May, 1842, a copy of which is hereto annexed, marked "M."

The defendants object to proving the contents of this letter by copy or by parol.

The witness proceeds to testify as follows:

The balance of this separate account is again particularly referred to in Mr. Cope's letter of the 25th of May, 1844, a copy of which is hereto annexed, marked "N,"—

The defendants object to proving the contents of this letter by copy or by parol.

The witness proceeds to testify as follows:

—when making a demand for the payment of the balances due upon both accounts.

5. Fifth interrogatory on the part of the plaintiffs:

Do you know whether or not the compromise of the debt of Silas E. Burrows and J. Truesdell & Son, mentioned in the semi-annual

return of the Burlington branch, of the 1st of June, 1835, was ever carried into effect? If not, do you know the reason why it was not?

To the fifth interrogatory the witness answers as follows:

On the 20th of January, 1835, Morris Robinson, cashier of the office of the Bank of the United States, at New York, wrote to the bank relative to the compromise of the debt of Silas E. Burrows, at Philadelphia, New York, and Burlington, Vermont. The committee of the bank to whom Mr. Robinson's letter was referred, decided upon submitting the matter to the discretion of the board in New York, who were more competent to determine upon the ability of the parties, and therefore the bank would concur in any agreement which might be made by that board in relation to the compromise with Silas E. Burrows; to which effect Mr. Robinson was advised on the 23d of January, 1835. On the 11th of April, 1835, Mr. Robinson reports: "Our board agreed to-day to accept S. E. Burrows' proposition to pay, or secure to be paid, thirty-three and one-third per cent. on his debt, retaining all the other parties liable to the full amount of their liability until the thirty-three and a third per cent. was paid," "except," as he states in his letter of 29th of May, 1835, "the debt to the Burlington office, which S. E. Burrows stipulates to have given up." The evidences of this debt, amounting, with interest, to twenty-seven hundred and sixty-six dollars and fifty-one cents, ($2,766 51,) had been accordingly surrendered to S. E. Burrows, on the first of May, 1835, and his note taken for one third of the amount, or nine hundred and twenty-two dollars and seventeen cents, ($922 17.) Mr. Burrows having failed to pay the composition money stipulated, according to contract, the compromise was annulled. A second compromise was arranged between the bank and S. E. Burrows, on the 4th of December, 1840, which Herman Cope, superintendent, communicated to John S. Lawrence, esq., of New York, on the 5th of December, 1840, but not including the Burlington office debt, which, in writing again to Mr. Lawrence on the 9th of December, 1840, Mr. Cope is particular in excluding, as the bank had no longer any control over it.

The details of this compromise being completed, Mr. Lawrence was instructed on the 11th of February, 1841, to carry it into effect. But it also failed of fulfilment from the inability of Burrows. On the 30th of March, 1841, in pursuance of the terms of the last mentioned compromise, Enoch Burrows confessed judgment in favor of the bank on his original liabilities, amounting with interest to thirty-six thousand eight hundred and thirty-seven dollars and twelve cents, ($36,837 12.)

C. Palmer of New York, in his letter of 15th of December, 1842, addressed to Herman Cope, esq., made an offer which the trustees rejected, but accepted a subsequent offer of one thousand dollars ($1000 00) on the twenty-eighth of February, 1845. All the evidence of indebtedness of Enoch Burrows, and also of Silas E. Burrows, except the evidences of the Burlington debt, were delivered up to him.

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Satisfaction was also entered on the judgment against Enoch Burrows, and Silas E. Burrows was discharged from any liability as a subsequent endorser on the notes of Enoch Burrows held by the Bank of the United States, or the trustees, which could be claimed by them as then existing.

6. Sixth interrogatory on the part of the plaintiffs:

Do you know whether or not the Bank of the United States or its trustees have ever received any thing by way of payment or satisfaction, on account of the debts or either of them due from the said Burrows, and Truesdell and Son, to the said bank at its office or branch at Burlington, since the transfer of the same to the defendants? If you do, state what they received, and state also if you know the condition of the said debtors in respect to ability to pay said debts.

To the sixth interrogatory the witness answers as follows:

The defendants object to that part of the interrogatory which relates to the ability of the debtors to pay.

The witness proceeds to testify as follows, under the above objection:

Neither the bank of the United States, nor the trustees under its assignment of the 4th of September, 1841, have to my knowledge ever received any payment on account of the debts, or either of them, due from Silas E. Burrows, as drawer and J. Truesdell, and Son as endorsers to the said bank at its late office at Burlington, Vermont, since the sale of the assets embraced in J. Peck and others' proposition to purchase, dated 10th March, 1836.

I have every reason to believe, from the nature of the settlement by the trustees, and the protracted negotiation which took place, which resulted in accepting one thousand dollars, for so large an amount of debt, that Enoch Burrows and Silas E. Burrows, possessed no ability to pay any greater sum.

7. Seventh interrogatory on the part of the plaintiffs:

Do you know whether or not the Bank of the United States, or the trustees have at any time since the compromise with Silas E. Burrows, of the 11th of April, 1835, interfered in any way with his indebtedness at the Burlington branch?

To the seventh interrogatory, the witness answers as follows:

They have not in any way.

8. Eighth interrogatory on the part of the plaintiffs:

Do you know of any other matter or thing of importance to the plaintiffs in this cause?

To the eighth interrogatory on the part of the plaintiffs, the witness answers as follows:

I do not.

1. First cross interrogatory on the part of the defendants:

Who were the trustees of the Bank of the United States, under the assignment of the 4th of September, 1841, and their clerk or agents,

and were the claims embraced in these suits among the demands assigned by the bank to said trustees?

To the first cross interrogatory the witness answers as follows:

The trustees under that assignment were James Robertson, Richard H. Bayard, James S. Newbold, Herman Cope, and Thomas S. Taylor. They had and have several clerks and agents. S. S. Taylor, Charles Thomas, James S. Farmer, Thomas B. Taylor, and John Ramsey, were and are their clerks. They had agents in other parts of the country. The claims embraced in these suits passed by the assignment above referred to.

2. Second cross interrogatory on the part of the defendants:

Were the original evidences of debt against Silas E. Burrows, at the Burlington branch, ever re-delivered to the bank after they were surrendered to him as you have stated?

To the second cross interrogatory the witness answers as follows:

Not to my knowledge. I believe S. E. Burrows has possession of them.

3. Third cross interrogatory on the part of the defendants:

Look at the paper produced by the defendants, marked "O," and say whether it is a true statement of the demands, comprising the suspended debt and real estate sold defendants, as furnished the defendants by you, from the books of the Bank of the United States, on a former occasion, and if so, annex, the same to your deposition.

To the third cross interrogatory the witness answers as follows, after being shown the said statements produced by the defendants:

It is a true statement as copied by me from the books of the bank. I identify the same by my signature, and annex the same to my deposition.

4. Fourth cross interrogatory on the part of the defendants:

Please give a statement of the items that compose the debt on the paper marked "O," and alluded to in your last answer, against J. Truesdell and Son, and Joseph Gary, footed at four thousand eight hundred and eighty-four dollars and forty-eight cents, ($4,884 48,) and say whether the said debt [was] ever released by the Bank of the United States.

To the fourth cross interrogatory the witness answers as follows:

The amount opposite the names of J. Truesdell and Son, and Joseph Gary, referred to in the statement annexed to my last answer, being four thousand eight hundred and eighty-four dollars and forty-eight cents, ($4,884 48,) was the balance remaining after compromise with J. Truesdell and Son, provisionally entered into by the board of the Burlington office, on the 10th of January, 1835, and approved and confirmed by the parent board, as appears by their minutes of the 16th of January, 1835. I do not recollect the items composing the debt.

For the above mentioned balance the parties were released by the bank. In confirmation of this statement I refer to [the] letter of T.

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Hockley, cashier, of 10th of January, 1835, annexing a copy of the resolutions of the board of the Burlington branch of that date, and also the proceedings of the parent board of the 16th of January, 1835, a copy of which is hereto annexed, marked "P" verified by my signature. I also annex the letter of T. Hockley, marked "Q," also verified by my signature, both of which I wish may be taken as part of my answer.

5. Fifth cross interrogatory on the part of the defendants.

State whether the said amount of fifty per cent. stipulated by said compromise was paid to the Bank of the United States, in pursuance of said compromise.

To the fifth cross interrogatory, the witness answers as follows:

I believe it was, but cannot answer positively.

JOHN RUMSEY.

WILLIAM RAWLE, WM. A. PORTER, } *Commissioners.*

Samuel Jaudon of the city of New York, banker, aged about 50 years, a witness produced on the part of the plaintiffs, being duly sworn according to law, answers as follows, to the interrogatory exhibited on the part of plaintiffs:

1. First interrogatory on the part of the plaintiffs:

Do you know the parties, plaintiffs and defendants, or either, and which of them? If aye, how long have you known them, or either, and which of them?

To the first interrogatory the witness answers as follows:

I have known the Bank of the United States since the year 1827, when I first became connected with it. I have no recollection of having had any personal acquaintance with any of the defendants, but I must have seen Mr. John Peck, in the course of business, about the month of March, 1836.

2. Second interrogatory on the part of the plaintiffs:

Were you at any time connected with the bank of the United States; if aye, in what capacity, and during what period of time?

To the second interrogatory the witness answers as follows:

I was first connected with the bank, I think, in 1827. I then went to New Orleans as assistant cashier of the bank there.

I think it was in 1826 I was assistant cashier here, and in 1827 I went to New Orleans, in the autumn. I remained in New Orleans as assistant cashier till the autumn of 1832, when I was elected cashier of the parent bank. I remained in the bank here as cashier till the fall of 1837, when I went to England as agent of the bank there.

I remained cashier of the old bank of the United States after the expiration of its charter in 1836, for the purpose of winding up its concerns; and on the organization of the new bank of the United States, chartered by the legislature of Pennsylvania, I became cashier of that bank also, and continued so till I went to Europe, as above stated.

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3. Third interrogatory on the part of the plaintiff:

What disposition was made of the property of the old bank?

To the third interrogatory on the part of the plaintiffs he answers as follows:

A sale and transfer of all the property belonging to the old bank chartered by Congress, with some immaterial exceptions, was made to the new bank.

The defendants here objected to parol evidence of the proceedings of the corporations, or either of them.

4. Fourth interrogatory on the part of the plaintiffs:

Have you any knowledge of a sale made by the bank of the United States of its property and effects, at the branch of the said bank at Burlington, Vermont, to the defendants, or any of them? If aye, state all that you know concerning the same.

To the fourth interrogatory he answers as follows:

I have a full knowledge of the sale above inquired of. The sale of that property of the branch bank at Burlington.

The defendants here objected to parol evidence of any contract, on the ground that the contract was in writing.

The witness proceeds, under the above objection, to testify as follows:

The sale of the property at the branch bank at Burlington, which was part of the property sold and transferred by the old bank to the new bank, was made on or about the 15th of March, 1836, to Messrs. John Peck, Wyllys Lyman, George P. Marsh, and John H. Peck. The amount, description of the property sold, and the price or consideration, and the mode of payment, are all contained in paper marked "A," verified by my signature, which I annex to my deposition, and wish to be taken as part of my answer, which contains also the valuation made at the time by the bank, and to which is attached also a copy of the entry on the books of the bank of the sale and settlement.

The defendants object to the admission, in evidence, of the statement above referred to.

The witness proceeds to testify as follows:

I also annex to my deposition, and request it may be taken as part of the same, a paper marked "B," verified by my signature, being a proposition from John Peck and others, dated Philadelphia, 10 March, 1836, for the purchase of the property referred to. On the 15th of March, 1836, I wrote a letter, in my official capacity as cashier of the bank, to Mr. John Peck, informing him that his proposition for the purchase of the debts and real estate at the office at Burlington had been accepted, and a copy of which, marked "C," I annex to my deposition. On the same day I wrote also an official letter to Thomas Hockley, agent of the bank at Burlington, a copy of which letter, marked "D," I also annex to my deposition, informing him of the acceptance, by the bank, of Mr. Peck's offer, and requesting him to carry it into effect. The proposition was made by Mr. Peck for himself and others.

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Messrs. Lyman & Marsh's name were mentioned, but I do not recollect the name of Mr. John H. Peck having been mentioned at that time, although he became a party, and was one of the parties who signed the notes given in payment for the property sold.

5. Fifth interrogatory on the part of the plaintiffs:

Are you able to state, from memory, the amount and description of the property and effects so sold?

To the fifth interrogatory he answers as follows:

I can state from memory, by refreshing my recollection by reference to papers, the amount and description of the property so sold. The sale was made as of the 2nd of March, 1836, so as to embrace what stood on that day on the books of the office at Burlington as the property of the bank. It consisted of bills discounted, amounted to seventy thousand one hundred and twenty-one dollars and one cent ($70,121, 01); bills receivable, two thousand one hundred and thirty-three dollars and forty-six cents ($2,133 46); making together, of that description of property, seventy-two thousand two hundred and fifty-four dollars and forty-seven cents ($72,254 47). There were certain specified debts as follows; McIntire and Burdick, twenty-four thousand one hundred and twenty-eight dollars and twelve cents ($24,128 12); McIntire and Blood, two thousand dollars ($2,000 00); Blood and Burdick, sixteen hundred dollars ($1,600 00); McIntire and Bean and Rolfe, three thousand dollars ($3,000 00); Gates and Company, twenty-three thousand seven hundred and ninety-five dollars and twenty-eight cents ($23, 795 28). These sundry debts amounting together to fifty-four thousand five hundred and twenty-three dollars and forty cents ($54,523 40).

The next description of property, suspended debt, amounting to twenty-six thousand eight hundred and nineteen dollars and twenty-five cents ($26,819 25). The real estate, amounting to twelve thousand two hundred and eighty-one dollars and fifty-seven cents ($12,281 57), consisting of the banking house and appurtenances, and a house and lot in Vergennes.

The first items, bills discounted and bills receivable, were sold for their face, say seventy-two thousand two hundred and fifty-four dollars and forty-seven cents ($72,254 47), as the valuation at that time.

The second class, consisting of the five debts specified above, were sold also at a valuation of their face, say fifty-four thousand five hundred and twenty-three dollars and forty cents ($54,523 40).

The suspended debt was sold at a valuation of five thousand dollars ($5,000 00).

The real estate at a valuation of ten thousand dollars ($10,000 00).

The total amount of property sold, as it stood on the books of the office at Burlington, was one hundred and sixty-five thousand eight hundred and seventy-eight dollars and sixty-nine cents ($165,878 69).

Total amount of the sale was one hundred and forty-one thousand seven hundred and seventy-seven dollars and eighty-seven cents ($141,

777 87), being the exact offer made by Mr. Peck for himself and others. But before this sale was consummated, some of the notes included under the head of bills discounted had been paid into the office, in consequence of which, and to make up an even amount, the sum of ten thousand and twenty dollars ($10,020 00) was paid in cash to Messrs. Peck and others, so as to make the exact amount of one hundred and forty-two thousand dollars ($142,000 00), not including interest to accrue thereafter. The sale was made on time.

6. Sixth interrogatory on the part of the plaintiffs:

In what manner was the said amount of one hundred and forty-two thousand dollars ($142,000 00) paid or secured?

To the sixth interrogatory he answers as follows:

The office received in payment four joint and several notes, signed by John Peck, Wyllys Lyman, George P. Marsh, and John H. Peck, all dated April 1, 1836, at Burlington, payable to my order as cashier at the Union bank in the city of New York, each for thirty-five thousand five hundred dollars ($35,500 00), payable respectively at one, two, three, and four years after date, making the principal of the sale one hundred and forty-two thousand dollars ($142,000 00). Mr. Hockley was directed to take them in my name as cashier, officially.

Besides these notes for principal, the bank received notes for interest, signed by the same parties, payable at intervals of six months, amounting in the aggregate to seventeen thousand seven hundred and fifty dollars ($17,750 00).

7. Seventh interrogatory on the part of the plaintiffs:

The witness being shown a promissory note, dated April 1, 1836, drawn by John Peck, Wyllys Lyman, George P. Marsh, and John H. Peck, at four years, to the order of Samuel Jaudon, esq., cashier, for thirty-five thousand five hundred dollars ($35,500 00), is asked—Is or is not this one of the notes referred to, in your answer to the last interrogatory, marked "E"?

To the seventh interrogatory he answers as follows:

It is one of the notes referred to.

The defendants object to the admission of the note referred to in evidence, on the ground of variance from the specification filed of record.

8. Eighth interrogatory on the part of the plaintiffs:

Why were these notes drawn payable to your order as cashier?

The defendants object to this interrogatory, and object to evidence of any custom or practice on the subject.

To the eighth interrogatory the witness answers as follows, under the above objection:

These notes were made payable to the cashier, to whose department they particularly belonged. Instruments of this kind were usually drawn in that form. In all sales of the property of the branches, particularly, of which a good many were made about this period, I think this form was used.

William Rawle, William A. Porter, Commissioners. S. Jaudon.

9. Ninth interrogatory on the part of the plaintiffs:

Had you or had you not any personal interest in this transaction; and if not, to whom did the notes of which you have spoken in your answer to the sixth interrogatory belong?

The defendants object to this interrogatory.

To the ninth interrogatory the witness answers as follows, under the above objection:

I had not, and never have had, any personal interest whatever in any of these notes. They were drawn in my favor as representing the Bank of the United States officially, and belonged to the bank.

10. Tenth interrogatory on the part of the plaintiffs:

Are you acquainted with John Andrews? Did he at any time, and when, hold any and what office, in the Bank of the United States?

The defendants object to this interrogatory; the objection being to the substance, and not to the form of the interrogatory.

To the tenth interrogatory the witness answers as follows, subject to the above objection:

I am well acquainted with Mr. John Andrews; he was an assistant cashier of the Bank of the United States, both of the old and of the new bank, I think, during the whole time of my cashiership.

11. Eleventh interrogatory on the part of the plaintiffs:

What was his authority, if any, in relation to the endorsement of notes belonging to the Bank of the United States?

The defendants object to this interrogatory; the objection being to the substance, and not to the form of the interrogatory.

To the eleventh interrogatory the witness answers as follows:

It was part of his special duty, as assistant cashier, to attend to the collection of notes held by the bank, to transmit all bills and notes to the places where they were payable, and to endorse them over to parties to whom they were sent for collection; and this was done whether the notes were made payable to the cashier, or to the president, directors, and company, or to any officer of the bank.

12. Twelfth interrogatory on the part of the plaintiffs:

Are you acquainted with his handwriting? If aye, look to the note referred to, marked "E," and state whether or not the endorsement thereon of his name is in his own proper handwriting.

The defendants object to this interrogatory; the objection being to the substance, and not to the form of the interrogatory.

To the twelfth interrogatory the witness answers as follows:

I am acquainted with Mr. Andrew's handwriting, and the endorsement is in his handwriting, as assistant cashier.

13. Thirteenth interrogatory on the part of the plaintiffs:

Are you acquainted with D. Allee; and do you know whether or not he, at any time, and when, held any, and what office, in the Union Bank, in the city of New York?

William Rawle, William A. Porter, Commissioners. S. Jaudon.

The defendants object to this interrogatory; the objection being to the substance, and not to the form of the interrogatory.

To the thirteenth interrogatory the witness answers as follows:

I did know Mr. Allee; but I never knew that he was an officer of the Union Bank; he was assistant cashier of the office of the Bank of the United States, in New York, for several years, particularly in 1836, and was the proper officer to whom notes, payable in the city of New York, were transmitted by Mr. Andrews. I cannot remember when he ceased to be assistant cashier. He continued either until he died, or when the office was closed by sale or transfer of its effects to another agent.

14. Fourteenth interrogatory on the part of the plaintiffs:

Do you know whether or not the said defendants, or either and which of them, were at any time, and when, directors of the branch of the Bank of the United States at Burlington, Vermont?

To the fourteenth interrogatory the witness answers as follows:

Mr. Wyllys Lyman and Mr. John Peck were directors in the year 1835, and until the office was closed, which was in September, 1835. They were also directors in 1834; none of the other defendants were ever, to my knowledge, directors.

15. Fifteenth interrogatory on the part of the plaintiffs:

The witness being shown two certain papers, marked "E 1" and "E 2", was asked—from whence were these papers obtained, and what are they?

To the fifteenth interrogatory the witness answers as follows:

These two papers are the original return of the suspended debt and real estate of the office of the Bank of the United States at Burlington, on the 1st of June, 1835, transmitted from the office to the parent bank at Philadelphia, according to the established practice and instructions of the bank. They contain a list of all the suspended debt and real estate of the office, classification of the debts into good, doubtful, and bad, with an estimate of the probable losses, and explanatory remarks made under the superintendence of a committee of the directors and cashier of the bank.

16. Sixteenth interrogatory on the part of the plaintiffs:

What does the letter "D", in red ink, on paper "E 2", opposite to the items under the third class, signify?

To the sixteenth interrogatory the witness answers as follows:

It means "Desperate." The standing instruction from the bank to all the offices, was to place the letter "D", in red ink, opposite to such debts in their returns as were considered desperate, or from which there was no expectation of further recovery, with a view to their being placed to the account of "Losses chargeable to the contingent fund," which is the name of the general loss account of the bank.

17. Seventeenth interrogatory on the part of the plaintiffs:

Do you know if there was, or if there was not, in the sale of the pro-

perty and effects at the Burlington branch to the defendants, any guaranty of the debts, or any of them, transferred?

The defendants object to this interrogatory; the objection being to the substance, and not to the form of the interrogatory.

To the seventeenth interrogatory the witness answers as follows:

There was certainly no guaranty by the Bank of the United States.

1. First cross interrogatory on the part of the defendants.

Can you state any particular reason, further than you have stated, why, in the sale of the property of the branch bank at Burlington, and the other branches, the notes were taken payable to yourself, cashier, instead of being taken payable to the bank directly? If so, state fully what that reason was.

To the first cross interrogatory on the part of the defendants, the witness answers as follows:

My impression is, that there was a special reason of this sort; as cashier I conducted the foreign correspondence of the bank, and also signed all foreign bills of exchange, so that my signature was well known in Europe. The bank about this time had sold, or was about selling out, a number of its branches, for obligations payable at periods of some years, and it was thought that these obligations might be used in Europe as the basis of a loan to the bank, which would thus have immediate possession of its capital. It was expected that I should go to Europe to make such a loan; and in fact I did go, and did negotiate a loan for the bank, though without the use of these securities. These circumstances, I think, were an additional reason why the obligations were taken in my official name.

S. JAUDON.

WILLIAM RAWLE, } *Commissioners.*
WM. A. PORTER, }

Thomas B. Taylor, of the city of Philadelphia, clerk and accountant, aged about 37 years, a witness produced on the part of the plaintiffs, being duly affirmed according to law, being conscientiously scrupulous of taking an oath, answers as follows to the interrogatories exhibited on the part of the plaintiffs:

1. First interrogatory on the part of the plaintiffs:

Do you know the parties to these suits, or either and which of them?

To the first interrogatory the witness answers as follows:

I know the plaintiffs in this suit; and I know John Peck, John H. Peck, and I have seen Mr. Lyman here; also Mr. Marsh.

2. Second interrogatory on the part of the plaintiffs:

Where you at any time, and when, and in what capacity, in the employment of the Bank of the United States; are you now, and in what capacity, in the employment of Messrs. Robertson and others, trustees of the said bank?

To the second interrogatory the witness answers as follows:

I was in the employment of the Bank of the United States from

April, 1837, till September, 1841, and am now employed by Messrs. Robertson and others, trustees, since the 4th September, 1841.

3. Third interrogatory on the part of the plaintiffs:

Have you at any time, and by whose direction, prepared a statement of the account of the said bank or trustees against the said defendants; if aye, when and what became of the same? Annex if you can a copy of the said account.

To the third interrogatory the witness answers as follows:

In April, 1842, by direction of the trustees, I stated the account of John Peck and others, showing a balance, as of the 23d March, 1842, of twenty-four thousand six hundred and ninety-nine dollars and eighty-four cents, ($24,699 84,) hereto annexed, marked "T," verified by my signature; at the same time I stated the account of Wyllys Lyman and others, upon a note for five thousand dollars, ($5,000 00,) due in June, 1837, showing a balance as of the first of May, 1842, of twenty-seven hundred and fifty-five dollars and thirty-five cents, ($2,755 35,) hereto annexed, marked "V," verified by my signature. These accounts were enclosed in a letter of Herman Cope, agent for James Robertson and others, addressed to John Peck, esq., agent, Burlington, a copy of which, marked "R," verified by my signature, is hereto annexed.

The defendants object to proving the contents of this letter by copy or by parol.

The witness proceeds to testify as follows:—dated the 12th of May, 1842, which letter was transmitted through the post office, the receipt of which is acknowledged by John Peck in his letter of 4th June, 1842, addressed to H. Pope, esq., agent, the original of which, marked "S," verified by my signature, is hereto annexed.

In November, 1843, I again stated the account of John Peck and others, showing a balance, as of the 8th of November, 1843, of twelve thousand six hundred and eighty dollars and fifty-four cents, ($12,680 54,) hereto annexed, marked "V," verified by my signature. This account does not include the five thousand dollar note. My best recollection is that this account was called for by, and delivered to, Mr. John H. Peck in person.

In December, 1845, I again stated the whole account of John Peck and others, including the note of Lyman and Cole, showing a balance, as of the 1st of January, 1846, of seventeen thousand six hundred and thirty-eight dollars and eighty-seven cents, ($17,638 87;) this was a re-statement of the account in order to present the whole at one view, to arrange the several items under their proper dates respectively, in order that the payments which were made from time to time might be applied.

The defendants object to any testimony in relation to this account, on the ground that it is admitted by the plaintiffs that it is not intended to follow it up with proof that the said account was communicated to the defendants, or any of them.

William Rawle, Wm. A. Porter, Commissioners. Thos. B. Taylor.

The counsel for the plaintiffs waives for the present all the evidence contained in the foregoing answer touching the account last referred to.

4. Fourth interrogatory on the part of the plaintiffs:

Were or were not the accounts which you have referred to, and designated by the letters "T," "U," and "V," correctly stated; if not, in what particulars were they incorrect?

To the fourth interrogatory the witness answers as follows:

There were several errors in form and in computation discovered in those accounts: 1st, the several items were not in all cases stated in their regular order of date; [this was owing to the notes maturing at distant intervals, and the payments were sometimes applied to the principal and interest of a former note, until after the maturity of a subsequent one; whereas the notes should have been regularly charged into the account at the date of maturity.]

The errors will appear by the corrected account made out by me, hereto annexed, marked "W," verified by my signature.

The defendants object to that part of this answer embraced by brackets, [ ].

There was one item of one hundred and one dollars eighty-three cents, ($101 83,) interest on a post note of the Bank of the United States for one thousand dollars, ($1,000 00,) which formed a part of the payment made by defendants, on the 26th May, 1843, which was allowed by agreement after the account had been stated on the 8th of November, 1843. This item should therefore be entered as of the 26th of May, 1843, and is so entered in the corrected account. There are also errors in the dates of payments on account of the five thousand dollar note, as appears in the account marked "U;" at the time the account "U" was made up, the credits were given from statements received from the agent at New York, to whom the payments were made. I mean that the dates in this account, "U," are the same as were on our books, entered from the advices from the agency at New York, the dates on the books being in accordance with the dates of the letters advising the payments. The corrections were made from the endorsements upon the note itself. There were also errors in the computation of interests, some of which were very small; one principal one I will mention, that of the 1st of May, 1842, in the account marked "U."

5. Fifth interrogatory on the part of the plaintiffs:

State if you please the principle upon which the account marked "W" was made up.

To the fifth interrogatory the witness answers as follows:

The general principle is that of applying each payment when made to the whole amount of principal and interest then due; the interest is computed by months and days, at the rate of six per cent. for twelve months, and the interest is charged from each payment to the date of the next payment, which is applied in extinguishment of the interest

first, and the surplus, if any, of each payment goes in reduction of principal debt.

6. Sixth interrogatory on the part of the plaintiffs:

Do you know whether or not any reply was made by Mr. Cope to the letter of Mr. Peck, agent, hereto annexed, marked "S;" if aye, annex the original of said reply, if in your power, or a true copy of the same.

To the sixth interrogatory the witness answers as follows:

The letter was replied to by Mr. Cope, on the 10th June, 1842; the original of which having been transmitted to Dr. John Peck, of Burlington, through the post office, I am not able annex it; I annex a true copy, marked "X," verified by my signature; to my answer to this interrogatory. I think it proper to remark, that the letter of Herman Cope, agent, marked "R," dated the 12th of May, 1842, and the reply of John Peck, marked "S," dated the 4th of June, 1842, are official letters between Mr. Cope and Mr. Peck, as agents for Mr. J. Robertson and others, trustees. Mr. John Peck acted as agent for the collection of certain unsettled claims which were not included in the sale to John Peck and others, and therefore the greater part of these letters have no connexion with the debt now in question in these suits. It is only the last paragraph in each letter which relates to the subject of the present suit. The first paragraph in Mr. Cope's letter, of 10th June, 1842, marked "X," is also in relation to the agency business, and not to the matters in controversy in these suits.

7. Seventh interrogatory on the part of the plaintiffs:

Have you in your possession a copy of the assignments executed by the Bank of the United States, on the 4th and 6th days of September, 1841, to James Robertson, Richard H. Bayard, James S. Newbold, Herman Cope, and Thomas S. Taylor? If aye, annex the same to your present deposition, and state whether the same is or is not a true and correct copy of the original instruments.

The defendants object to the copy of the assignments, above referred to, being given in evidence, on the ground of its not being the best evidence that the nature of the case will admit of.

The witness proceeds to testify, as follows:

I have in my possession, and annex to my answer to this interrogatory, true copies of said assignment, marked "Y" and "Z," which I have compared with the originals.

THO. B. TAYLOR.
WILLIAM RAWLE,
WM. A. PORTER, *Com'rs.*

We the commissioners, named in the annexed commission, do hereby certify, that in pursuance of the directions therein contained, we gave due notice to George P. Marsh, the counsel of the defendants, that depositions of witnesses would be taken, under the said commission, on the tenth day of September, in the year of our Lord one thousand eight hundred and forty-six, at 10 o'clock, a. m., at the office

of James Robertson, esq., and others, trustees of the Bank of the United States, on the south side of Chesnut street, between Fourth and Fifth streets, in the city of Philadelphia, at which time and place we were attended by John Peck, the said George P. Marsh, and by Asahel Peck, also of counsel with the defendants; that we then appointed William Henry Rawle our clerk; and the oaths and affirmation specified in the schedule hereunto annexed, having been duly administered to us, the commissioners, and our clerk respectively, we proceeded to the execution of the said commission, which we continued by adjournment, from time to time, until the same was completed. We farther certify, that the deponents, Samuel Jaudon and John Ramsey, were by us first duly sworn, and the affirmants, Lloyd Mifflin and Thomas B. Taylor, duly affirmed according to law, (the said Lloyd and Thomas being conscientiously scrupulous of taking an oath,) to declare the truth, the whole truth, and nothing but the truth, upon the interrogatories to be exhibited to us.

That we examined each of the said witnesses apart, upon each and all the interrogatories and cross interrogatories exhibited to us, as well on the part of the plaintiffs as on the part of the defendants, and caused their respective examinations and answers to the said interrogatories and cross interrogatories, to be reduced into writing by our clerk, in our presence and under our direction; and the depositions of the said witnesses were by them respectively subscribed in our presence, on the days and at the place, in the introduction to the said examinations mentioned.

In witness whereof we have hereunto set our hands and seals, this seventeenth day of September, in the year of our Lord one thousand eight hundred and forty-six.

WILL'M RAWLE, [SEAL.]
WM. A. PORTER, [SEAL.]
Commissioners.

WM. HENRY RAWLE, *Clerk.*

A.—S. JAUDON. A.—L. MIFFLIN.

Property and effects of the Bank of the United States, standing on the books of the Branch at Burlington, 2d March, 1836, and sold to John Peck and others.

No.	Description of property and effects.			Amount of same.	Estimated value thereof.
1	March 2, 1836. Bills discounted		$70,121 01		
	Do Bills receivable		2,133 46	$72,254 47	$72,254 47
2	Do McIntire & Benedick's debt		24,128 12		
	Do McIntire & Blood's debt		2,000 00		
	Do Blood & Benedick's debt		1,600 00		
	Do McIntire, Bean & Rolfe debt		3,000 00		
	Do Gates & Co's		23,795 28	54,523 40	54,523 40
3	Suspended debt, viz:	Aggregate.	Estimated loss.		
	Per list June 1, 1835, herewith	$29,446 48	$15,764 26		
	Per list Nov. 1, 1835, additional.	925 00			
	Per list Mar. 2, 1836, additional.	2,957 67			
	Mar. 2, 1836, addi'al est'ed loss		2,235 74		
		33,329 15			
	Mar. 2, 1836, deduct collections to date	6,509 90			
	Total	26,819 25	18,000 00		
	Mar. 2, 1836, deduct estim'd loss	18,000 00		26,819 25	8,819 25
4	Real estate, viz:				
	Per list June 1, 1835, herewith	11,550 00			
	Per list Nov. 1, 1835, additional.	731 57	331 57		
		12,281 57	331 57		
	Mar. 2, 1836, deduct estm'd loss	331 57		12,281 57	11,950 00
	Aggregate amount			165,878 69	
	From which deduct estimated loss as above			18,331 57	147,547 12

Estimated value of property and effects brought forward 147,547 12

"John Peck for himself and others," for the preceding described property and effects made, on the 10th of March, 1836, the following offer, viz.:

For No. 1, am'ing to	$72,254 47	esti'ted at $72,254 47	he offered	$72,254 47
For No. 2, am'ing to	54,523 40	esti'ted at 54,523 40	he offered	54,523 40
For No. 3, am'ing to	26,819 25	esti'ted at 8,819 25	he offered	5,000 00
For No. 4, am'ing to	12,281 57	esti'ted at 11,950 00	he offered	10,000 00
	165,878 69	147,547 12		141,777 87
Add estimate of loss by the Bank of the United States	18,331 57			
Add loss by the above offer				24,100 82
	165,878 69	165,878 69		165,878 68

The amount of the above offer was	141,777 87
Thereby increasing the depreciation	5,769 25
To which add estimated loss by the Bank United States	18,331 57
Resulting in a loss upon the sale of the property and effects of	24,100 82

Bills receivable from office, Burlington,
To sundry accounts.

For the notes of the following parties, received in payment of debt et ca., of office Burlington, dated April 1st, 1836, payable in the city of New York, at the Union Bank, to the order of Samuel Jaudon, cashier, viz., John Peck, Wyllys Lyman, George P. Marsh, and John H. Peck, joint and several notes:

One payable in	1	year, say	1st April,	1837	$35,500 00	
One	do	2	do	1838	35,500 00	
One	do	3	do	1839	35,500 00	
One	do	4	do	1840	35,500 00	
						$142,000 00

And for the interest thereon, at 5 per cent. per annum, the following notes:

One payable in	6	months, say	Oct. 1,	1836	$3,550 00	
One	do	12	do	Apr. 1, 1837	3,550 00	
One	do	18	do	Oct. 1, 1837	2,662 50	
One	do	24	do	Apr. 1, 1838	2,662 50	
One	do	30	do	Oct. 1, 1838	1,775 00	
One	do	36	do	Apr. 1, 1839	1,775 00	
One	do	42	do	Oct. 1, 1839	887 50	
One	do	48	do	Apr. 1, 1840	887 50	
						17,750 00
						$159,750 00

To office, Burlington, for the following debts et ca., transferred to the above named gentlemen, viz.:

Bills discounted - - -	$60,323 14	
Bils receivable - - -	2,133 46	
Domestic bills - - -	54,523 40	
Real estate - - -	10,000 00	
Suspended debt - - -	5,000 00	
Cash - - - -	10,020 00	
	142,000 00	
Forward - - -	142,000 00	159,750 00
Amount brought forward	142,000 00	159,750 00
To contingent interest for the *the* interest as above - - - - - -	17,750 00	159,750 00

Between the date mentioned in their proposition to purchase, viz., the 2d March, 1836, and the time at which the assets purchased were delivered by the bank to the above named gentlemen, there occurred a reduction in the aggregate amount of the item called "Bills discount-

A.—S. JAUDON. A.—L. MIFFLIN.

Property and effects of the Bank of the United States, standing on the books of the Branch at Burlington, 2d March, 1836, and sold to John Peck and others.

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	Do Blood & Benedick's debt		1,600 00		
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	Do Gates & Co's		23,795 28	54,523 40	54,523 40
3	Suspended debt, viz:	Aggregate.	Estimated loss.		
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	Per list Nov. 1, 1835, additional	925 00			
	Per list Mar. 2, 1836, additional	2,957 67			
	Mar. 2, 1836, addi'al est'ed loss		2,235 74		
		33,329 15			
	Mar. 2, 1836, deduct collections to date	6,509 90			
	Total	26,819 25	18,000 00		
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	Per list June 1, 1835, herewith	11,550 00			
	Per list Nov. 1, 1835, additional	731 57	331 57		
		12,281 57	331 57		
	Mar. 2, 1836, deduct estm'd loss	331 57		12,281 57	11,950 00
	Aggregate amount			165,878 69	
	From which deduct estimated loss as above			18,331 57	147,547 12
	Estimated value of property and effects brought forward				147,547 12

"John Peck for himself and others," for the preceding described property and effects made, on the 10th of March, 1836, the following offer, viz.:

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For No. 2, am'ing to	54,523 40	esti'ted at 54,523 40	he offered 54,523 40
For No. 3, am'ing to	26,819 25	esti'ted at 8,819 25	he offered 5,000 00
For No. 4, am'ing to	12,281 57	esti'ted at 11,950 00	he offered 10,000 00
	165,878 69	147,547 12	141,777 87
Add estimate of loss by the Bank of the United States	18,331 57		
Add loss by the above offer			24,100 82
	165,878 69	165,878 69	165,878 68

The amount of the above offer was	141,777 87
Thereby increasing the depreciation	5,769 25
To which add estimated loss by the Bank United States	18,331 57
Resulting in a loss upon the sale of the property and effects of	24,100 82

Bills receivable from office, Burlington,
To sundry accounts.

For the notes of the following parties, received in payment of debt et ca., of office Burlington, dated April 1st, 1836, payable in the city of New York, at the Union Bank, to the order of Samuel Jaudon, cashier, viz., John Peck, Wyllys Lyman, George P. Marsh, and John H. Peck, joint and several notes:

One payable in	1	year, say	1st April,	1837	$35,500 00	
One	do	2	do	1838	35,500 00	
One	do	3	do	1839	35,500 00	
One	do	4	do	1840	35,500 00	
						$142,000 00

And for the interest thereon, at 5 per cent. per annum, the following notes:

One payable in	6	months, say	Oct. 1,	1836	$3,550 00	
One	do	12	do	Apr. 1, 1837	3,550 00	
One	do	18	do	Oct. 1, 1837	2,662 50	
One	do	24	do	Apr. 1, 1838	2,662 50	
One	do	30	do	Oct. 1, 1838	1,775 00	
One	do	36	do	Apr. 1, 1839	1,775 00	
One	do	42	do	Oct. 1, 1839	887 50	
One	do	48	do	Apr. 1, 1840	887 50	
						17,750 00
						$159,750 00

To office, Burlington, for the following debts et ca., transferred to the above named gentlemen, viz.:

Bills discounted - - -	$60,323 14	
Bils receivable - - -	2,133 46	
Domestic bills - - -	54,523 40	
Real estate - - -	10,000 00	
Suspended debt - - -	5,000 00	
Cash - - - -	10,020 00	
		142,000 00
Forward - - -	142,000 00	159,750 00
Amount brought forward	142,000 00	159,750 00
To contingent interest for the *the* interest as above - - - - - -	17,750 00	159,750 00

Between the date mentioned in their proposition to purchase, viz., the 2d March, 1836, and the time at which the assets purchased were delivered by the bank to the above named gentlemen, there occurred a reduction in the aggregate amount of the item called "Bills discount-

ed," from $70,121 01, to $60,323 14. The amount of the reduction, viz., $9,797 87/100, together with the difference between the amount of their said offer to purchase, (viz., $141,777 87,) and the aggregate amount of their said four promissory notes, given and received for the principal of the purchase money, ($142,000,) say $222 13, making together the total sum of $10,020, was paid over by the bank to those gentlemen, purchasers at the time, in cash, in order to make up the amount of assets delivered the sum of $142,000, for which their said four notes of $35,500 each, were given.

This is the statement A, referred to by the affirmant Lloyd Mifflin, in his answer to the fourth interrogatory on the part of the plaintiffs.

WILLIAM RAWLE,
WILLIAM A. PORTER,
Commissioners.

This is the statement A, referred to by the deponent, Samuel Jaudon, in his answer to the fourth interrogatory on the part of the plaintiffs.

WILLIAM RAWLE,
WILLIAM A. PORTER,
Commissioners.

Referred March 11, 1836, to commissioner offe. with power.

To the President and Directors of the Bank of the United States.

John Peck and Lyman and Marsh and others, propose to purchase of the Bank of the United States the property of the office at Burlington, Vt., as it was upon the 2d day of March, 1836, upon the following terms, viz:

Bills discounted, 2d March, 1836 -	$70,121 01	
Bills receivable, same date - -	2,133 46	
		$72,254 47
With average of interest.		
McIntire & Burdick's debt - -	$24,128 12	
McIntire & Blood's debt - - -	2,000 00	
Blood & Burdick's debt - - -	1,600 00	
McIntire & Bean & Rolf's debt - -	3,000 00	
Gates & Co.'s debts - - - -	23,795 28	
	At the face.	54,523 40
Suspended debt - - - - - - - -		5,000 00
Banking house and appurtenances, and house and lot in Vergennes - - - - - - - -		10,000 00
		$141,777 87

To be paid in four or five annual instalments, with 5 per cent. interest, and such security given as shall be satisfactory.

JOHN PECK, *for himself and others.*

Philadelphia, 10th March, 1836.

B. — L. Mifflin. B. — S. Jaudon.

This is the paper, marked "B," referred to by the affirmant, Lloyd Mifflin, in his answer to the fourth interrogatory on the part of the plaintiffs.

WILLIAM RAWLE,
WILLIAM A. PORTER,
Commissioners.

This is the paper, marked "B," referred to by the deponent, Samuel Jaudon, in his answer to the fourth interrogatory on the part of the plaintiffs.

WILLIAM RAWLE,
WILLIAM A. PORTER,
Commissioners.

Explanatory memorandum.

The suspended debt at the office, Burlington, amounted on the 30th Nov., 1835, to	$25,983 14	
Probable loss	15,739 26	
Estimated value		$10,243 88
Since that period, some debts have been added, and some payments made, which leave the present amount of debt	$26,819 25	
And so far as can be ascertained, the present estimated loss is about	18,000 00	
Estimated value		8,819 25
The real estate cost	12,481 57	
Estimated probable loss	531 57	
Estimated value		11,950 00

	Office estimate.	Offer of Dr. Peck.
Suspended debt	$8,819 25	$5,000 00
Real estate	11,950 00	10,000 00
	20,769 25	15,000 00

UNITED STATES OF AMERICA,
State of New York, ss.

On the fourth day of April, in the year of our Lord one thousand eight hundred and forty, at the request of the Bank of the United States, in New York, I, John D. Campbell, notary public, duly admitted and sworn, dwelling in the city of New York, did present the original promissory note, joint and several, John Peck, W. Lyman, G. P. Marsh, and John H. Peck, makers, hereto annexed, for $35,500, dated Burlington, April 1, 1836, at the Union Bank, in the city of New York, (where the same is made payable,) to the paying teller,

and demanded of him payment thereof, which he refused for want of funds of the makers.

Whereupon I, the said notary, at the request aforesaid, did protest, and by these presents do publicly and solemnly protest, as well against the makers and endorsers of the said promissory note, as against all others whom it doth or may concern, for exchange, re-exchange, and all costs, damages, and interest, already incurred, and to be hereafter incurred, for want of payment of the said promissory note.

Thus done and protested, in the city of New York aforesaid, in the presence of John Doe and Richard Roe, witnesses.

In testimonium veritatis.

JOHN D. CAMPBELL, *Not. Pub.*

571—John Peck and others for B. U. S., Philadelphia.
April 4, 1840.
$35,500.

E—S. Jaudon,
L. Mifflin.

Burlington, *April 1st*, 1836.

$35,500.

Four years after date, we jointly and severally promise to pay to Samuel Jaudon, esq., cashier, or order, thirty-five thousand five hundred dollars, at the Union Bank, in the city of New York, for value received.

JOHN PECK,
WYLLYS LYMAN,
GEORGE P. MARSH,
JOHN H. PECK.

Due April 14, 1840.

6228—Pay D. Allee, assist. cash'r, or order. 174.

J. ANDREWS, *Abr.*

This is the note, marked "E," referred to by the deponent, Samuel Jaudon, in his answer to the seventh interrogatory, on the part of the plaintiffs.

WM. RAWLE,
WM. A. PORTER,
Commissioners.

This is the note, marked "E," referred to by the affirmant, Lloyd Mifflin, in his answer to the fifth interrogatory on the part of the plaintiffs.

WM. RAWLE,
WM. A. PORTER,
Commissioners.

C. (Copy)

BANK OF THE UNITED STATES,
March 15*th*, 1836.

DEAR SIR: Your proposition, of which the foregoing is a copy, for the purchase of the debts and real estate at the office of Burlington, has been accepted by our board, and Mr. Hockley will be instructed to carry it into immediate effect. Very respectfully, yours,

(Signed) S. JAUDON, *Cashier*.

JOHN PECK, esq., of Burlington, Vermont.

This is the paper, marked "C," referred to by the deponent, Samuel Jaudon, in his answer to the fourth interrogatory on the part of the plaintiffs.

WILLIAM RAWLE,
WM. A. PORTER,
Commissioners.

(Copy.)

BANK OF THE UNITED STATES,
March 15*th*, 1836.

DEAR SIR: Herewith you will receive a copy of an offer, made by Dr. Peck, for the active and suspended debt and real estate as they stood on your books on the 2d instant. This offer has been accepted by the bank, and you will please carry it into immediate effect.

It will be best to increase the amount by a cash payment, so as to make an even sum, say $142 m., and you will take the notes for equal amounts, at 1, 2, 3, and 4 years, payable in New York (or Philadelphia, if equally convenient), and separate notes for the interest.

We hope the purchase will be assumed by the Farmers and Mechanics' Bank; and in that case you will take the notes without the seal of the bank, but accompanied by a copy of the resolution which authorizes their issue—which copy should be under seal.

The notes are to be taken in my name officially.

The deeds you will have prepared for the banking house, &c., and forwarded as soon as convenient.

The security of the F. & M. Bank, we presume, will be satisfactory; but of this you will judge, as well as of the personal security, should the bank decline. Very respectfully, yours,

(Signed) S. JAUDON, *Cashier*.

THOS. HOCKLEY, esq.,
Agent B. U. S., Burlington, Vt.

This is the paper, marked "D," referred to by the deponent, Samuel Jaudon, in his answer to the fourth interrogatory on the part of the plaintiffs, C. & D. S. Jaudon.

WILLIAM RAWLE,
WM. A. PORTER,
Commissioners.

Recapitulation of the lists of suspended debt and real estate at the office Bank United States, June 1st., 1835.

Description of debt, corresponding in amount with the state of the office.	Amount of principal unpaid.	Probable loss of principal on each class.	Contingent interest due to this date.
Bills discounted, per list herewith, viz:			
Of the first class.....good.....	$9,687 63	.....	$1,083 08
Of the second class.....doubtful.....	4,488 52	$2,603 04	734 11
Of the third class.....bad.....	3,925 25	3,925 25	496 70
Total.....	18,101 40	6,528 29	2,313 89
Domestic bills of exchange, per list herewith, viz:			
Of the first class.....good.....	1,273 74	.....	168 25
Of the second class.....doubtful.....	.....	.....	.....
Of the third class.....bad.....	10,071 34	9,235 97	359 56
Notes on a pledge of stock, per list herewith.....	.....	.....	.....
Bonds and mortgages, do. do.....	.....	.....	.....
Cash deficiencies and counterfeits, per list herewith.....	.....	.....	.....
Over drafts, per list herewith.....	.....	.....	.....
Debts not otherwise classed, per list herewith.....	.....	.....	.....
Real estate, per list herewith.....	11,550 00	.....	.....
Total of "suspended debt and real estate,".....	40,996 48	15,764 26	2,841 73
Deduct "probable gain on real estate," if any.....	.....	.....	.....
Losses chargeable to contingent fund, present balance.....	.....	.....	.....
Estimated total "probable loss on the inactive debt at this office".....	15,764 26	.....	.....

E 1. L. JAUDON. L. MIFFLIN.

Lyman et als. vs. Bank United

Recapitulation of the list of credits on account of debts and real estate, reported in the last semi-annual statement, since that date to present time, June 1st, 1835.

On what account.	Principal.	Interest and rents, &c.
Bills discounted, per list of items herewith	$1,145 13	$80 73
Domestic bills of exchange, per list of items herewith		
Notes on pledge of stock, per list of items herewith		
Bonds and mortgages, per list of items herewith		
Cash deficiencies, per list of items herewith		
Over drafts, per list of items herewith		
Debts not otherwised classed, per list of items herewith		
Real estate, per list of items herewith	225 00	
Charged to losses chargeable to C. fund, per list of items herewith		
Total credits to "suspended debt and real estate"	1,370 13	80 73

	Principal and interest.	
Credits to losses chargeable to contingent fund since last semi-annual report, per list herewith		

et al. vs. Bank United States.

This is the paper marked "E 1," referred to by the witness, Samuel Jaudon, in his answer to the fifteenth interrogatory on the part of the plaintiffs.

WILLIAM RAWLE,
WM. A. PORTER,
Commissioners.

The undersigned hereby certify, that they have carefully examined, in detail, the lists of "suspended debt and real estate" at this office, and are of opinion, that the "classification" of the debts, the estimated "probable loss of principal" on each debt of the "doubtful" and "bad" classes throughout the lists, with the "estimated present value" of the "real estate," are all correctly made as therein stated; that the "explanatory remarks" opposite to each debt, gives an abstract of the measures which have been pursued within the last six months for its recovery or security; and that the "recapitulation" exhibits, in the aggregate, (including the losses chargeable to the contingent fund,) all the losses at present known or apprehended on the inactive debt at this office. And that of the active or current debts growing to maturity, $\frac{1}{100}$ dollars is considered "doubtful," and upon which we apprehend there will be ultimately a "probable loss" of $\frac{1}{100}$ dollars.

President.

T. HOCKLEY, *Cashier.*

WYLLYS LYMAN,
JOHN BRADLEY,
Committee.

OFFICE BANK UNITED STATES,
Burlington, June 1st, 1835.

This is the paper marked "E 1," referred to by the affirmant, Lloyd Mifflin, in his answer to the ninth interrogatory on the part of the plaintiffs.

WILLIAM RAWLE,
WM. A. PORTER,
Commissioners.

Date of Protest.	Drawers.	Endorsers.
1832		*First class considered good.*
Feb'ary 21	E. H. Burnham.....	Russel Barnan, Martin Phinney.....
July 3	Geo. Chipman.....	Charles Linsley.....
1833		
March 11	Enos Blin.....	Sam'l Blin, Bean & Rolfe, J. A. Banton.....
" 28	David Kellogg.....	Nelson Kellogg, Elijah Kellogg.....
April 16	Enos Blin.....	Sam'l Blin, Chester Blin.....
" 19	Sam'l R. Brown.....	H. Strong, P. Atwater.....
May 1	Israel P. Richardson.	Lyman Southgate.....
" 7	Jonathan Stone	B. McFarland.....
June 1	Israel P. Richardson.	Willard Daggett.....
Sep. 30	Lyman Perrigo.....	Asahel Northway, D. Castle, jr.....
Oct. 18	David Tyler.....	Butler & Peaslie, Bean & Rolfe.....
" 15	Geo. Mott.....	Thomas Mott, Danford Mott.....
" 22	D. T. Taylor.....	John M. Towles, Benj. Mott.....
Nov. 13	Duncan McGregor..	Chas. Carron.....
" 14	Jonas Hobart.....	Nath. Packard, Thos. Haynes.....
Dec. 14	Gary Munger.....	Cyrus Farrard, G. Churchill .....
" 27	Dan'l Richardson....	Asahel Northway, Wm. Wood.....
1834		
Feb. 11	Sam'l R. Brown.....	D. Stearns, P. F. Walker.....
April 9	Joseph Sewall.....	Fred. Hagen, Taber Sewell, H. Leffingwell.....
" "	Horace Houghton...	J. H. Morrill, Horatio Seymour.....
" 22	James Farnesworth..	Jacob Maeck, J. P. Prindle .....
" "	James Farnesworth..	Heman Allen.....
May 16	Elijah Benton.....	Felix Benton, Azro Benton.....
" "	.....do.....	...do....do....do....do.....
Aug. 10	David Moodie.....	H. T. Allen, Joseph Scott.....
Sept. 1	Pallas Phelps.....	J. Soule, Joel Barton.....
" 22	Cyrus Wilcox.....	Sam'l Nichols, Stephen Whitney .....
1832		*Second class considered doubtful.*
April 30	James Smith.....	Joseph Tucker, Philip C. Tucker.....
May 2	Benj. Champlin,....	Enoch Palmer, Seth Barnam .....
" 23	Amos B. Cooper, 2d.	Amos B. Cooper and others.....
" 25	Jona. C. Parker.....	Gideon Parker, Hiram Humphrey.....
	O. D. S. Gallup.....	Elisha Burgess, Clement Trowbridge.....
	Seth Willey.....	O. D. S. Gallup, E. Burgess, C. Trowbridge.....
June 8	Lucien Bliss.....	Gideon Parker, Curtis Parker.....
July 7	Alanson Parker.....	Curtis Parker, G. Parker, J. Coleman.....
Feb. 18	Isaac W. Bishop....	Horace Cobb.....
1833		*Third class considered bad.*
Feb. 21	Russel Barnam.....	J. D. Hoag, Harlow Barnam.....
April 1	Harlow Barnam	.....do....Lewis Barnam.....
" 17	Dan'l Palmer.....	.....do....Russel Barnam.....
May 25	Harry S. Goodrich..	H. Langworthy, M. Langworthy.....
June 26	P. M. & H. Foster..	Elisha Boardman, N. B. & H. Arley.....

Amount of principal unpaid.	Probable loss of principal.	Contingent interest due.	Remarks.
$75 00	.....	$45 44	This is the paper marked "E 2," referred to by the affirmant, Lloyd Mifflin, in his answer to the ninth interrogatory on the part of the plaintiffs. WILLIAM RAWLE, WM. A. PORTER, *Commissioners.*
2,800 00	.....	432 00	
500 00	.....	66 56	
750 00	.....	97 75	
300 00	.....	38 19	
200 00	.....	25 36	
250 00	.....	31 25	
75 00	.....	8 95	
81 00	.....	9 56	
150 00	.....	15 00	
280 29	.....	27 13	
200 00	.....	19 51	
250 00	.....	24 10	
100 00	.....	9 28	
150 00	.....	13 89	Same as last report.
100 00	.....	8 78	
175 00	.....	13 12	
125 00	.....	9 33	
500 00	.....	34 31	
150 00	.....	10 29	
200 00	.....	13 26	
300 00	.....	19 90	This is the paper marked "E 2," referred to by the deponent, Samuel Jaudon, in his answer to the fifteenth interrogatory on the part of the plaintiffs. WILLIAM RAWLE, WM. A. PORTER, *Commissioners.*
753 54	.....	42 60	
732 80	.....	45 36	
200 00	.....	9 66	
140 00	.....	6 30	
150 00	.....	6 20	
$9,687 63		$1,083 08	
190 49	190 49	35 16	
182 55	182 55	47 51	
1,450 00	500 00	262 67	
180 00	180 00	33 55	
400 00	200 00	80 99	
400 00	200 00	80 99	Same as last report.
300 00	200 00	57 82	
350 00	200 00	56 58	
1,035 48	750 00	79 84	
$4,488 52	$2,603 04	$734 11	
497 00	497 00	95 16	D.
350 00	350 00	56 42	D.
275 00	275 00	51 46	D.
70 38	70 38	24 32	D.
210 87	210 87	49 19	D.

Date of Protest.	Drawers.	Endorsers.
July 15	Salmon Coleman....	Alanson Parker, John Coleman.....
Aug. 26	Edwin Brown.....	Harris Hoyt, Levi Chapin.....
1834		
Feb. 7	James Duane.....	Robt. L. Duane.....
1831		
March 26	Horace Lovely	G. W. Benjamin.....
		LIST OF DOMESTIC BILLS, &c.
		First class considered good.
1833		
March 4	C. B. Prindle.....	James Pilling.....
10	.....do.....	M. Hopper, Calvin Ernst.....
10	.....do.....	.....do.....do.....
April 4	.....do.....	James Pilling.....
1833		***Third class considered bad.***
Aug. 2	H. B. Titus.....	John H. Titus.....
Oct. 1	.....do.....	.....do .....
1834		
Feb. 7	Robert L. Duane....	James Duane.....
1833		
Dec. 18	J. Truesdell & Son..	Joseph Gary.....
1834		
Jan. 29	.....do.....	.....do .....
Feb. 3	.....do.....	.....do .....
" 26	Silas E. Burrows....	J. Truesdell & Son.....
" "	.....do.....	.....do .....

Continued.

Amount of principal unpaid.	Probable loss of principal.	Contingent interest due.	Remarks.
$100 00	$100 00	$17 25	D.
80 00	80 00	13 25	
2,250 00	2,250 00	177 63	
92 00	92 00	12 02	
$3,925 25	$3,925 25	$496 70	
370 00	.....	49 68	
228 74	.....	30 51	
200 00	.....	26 66	
475 00	.....	61 40	
$1,273 74		$168 25	
550 00	550 00	60 28	D.
100 00	100 00	10 00	
2,000 00	2,000 00	157 89	
4,884 48	4,884 48	91 72	D. This balance remaining after payment per compromise.
1,531 49	1,031 49	23 97	D. Compromised at 33⅓ per ct., at New York office; particulars not yet received.
1,005 37	670 00	15 73	D. Compromised at 33⅓ per ct., at New York office; particulars not yet received.
$10,071 34	$9,235 97	$359 59	

List of real estate at office Bank United States, Burlington—Banking house..$11,550 00.

E 2.

S. JAUDON,
L. MIFFLIN.

Recapitulation of the lists of suspended debt and real estate at the office Bank United States, 30th November, 1835.

Description of debt, corresponding in amount with the "State of the Office."	Amount of principal unpaid.	Probable loss of principal on each class.	Contingent interest due to this date.
Bills discounted, per list herewith, viz:			
Of the first class.....good.....	$6,662 63	.....	$753 70
Of the second class.....doubtful.....	4,010 15	$2,578 04	854 26
Of the third class.....bad.....	3,925 25	3,925 25	614 56
Total.....	14,598 03	6,503 29	2,222 54
Domestic bills of exchange, per list herewith, viz:			
Of the first class.....good.....	1,273 74	.....	206 46
Of the second class.....doubtful.....	.....	.....	.....
Of the third class.....bad.....	10,071 34	9,235 97	661 72
Notes on a pledge of stock, per list herewith.....	.....	.....	.....
Bonds and mortgages, per list herewith.....	.....	.....	.....
Cash deficiencies and counterfeits, per list herewith.....	.....	.....	.....
Over drafts, per list herewith.....	.....	.....	.....
Debts not otherwise classed, per list herewith.....	.....	.....	.....
Real estate, per list herewith.....	12,481 57	531 57	.....
Total of "suspended debt and real estate".....	38,424 68	16,270 83	3,090 72
Deduct "probable gain" on real estate, if any.....	.....	.....	.....
Losses chargeable to contingent fund, present balance.....	.....	.....	.....
Estimated total "probable loss" on the inactive debt at this office.....	.....	16,270 83	.....

L. MIFFLIN.

H.

This is the paper marked "H," referred to by the affirmant, Lloyd Mifflin, in his answer to the first cross interrogatory on the part of the defendants.

WILLIAM RAWLE,
WM. A. PORTER, *Commissioners.*

Lyman et als. vs. Bank Uni

Recapitulation of the lists of credits on account of debts and real estate, reported in the last semi-annual statement, since that date to present time, 18 .

On what account.	Principal.	Interests and rents, &c.
Bills discontinued, per list of items herewith	$4,428 37	$90 11
Domestic bills of exchange, per list of items herewith		
Bonds and mortgages, per list of items herewith		
Notes on pledge of stocks, per list of items herewith		
Cash deficiencies, per list of items herewith		
Over drafts, per list of items herewith		
Debts not otherwise classed, per list of items herewith		
Real estate, per list of items herewith	2,825 00	
Charged to losses, charged to contingent fund, per list of items herewith		
Total credits to "suspended debt and real estate"	7,253 37	90 11

	Principal and interest.
Credits to losses chargeable to contingent fund since last semi-annual report, per list herewith	

Office Bank United States, *Burlington, December* 1, 1835.

T. HOCKLEY, *Agent.*

The undersigned hereby certify, that they have carefully examined, in detail, the lists of "suspended debt and real estate" at this office, and are of opinion that the "classification" of the debts, the estimated "probable loss of principal" on each debt of the "doubtful" and "bad" classes throughout the lists, with the "estimated present value" of the "real estate," are all correctly made as therein stated; that the "explanatory remarks" opposite to each debt gives an abstract of the measures that have been pursued within the last six months for its recovery or security; and that the "recapitulation" exhibits, in the aggregate, (including the losses chargeable to the contingent fund,) all the losses at present known or apprehended on the inactive debt at this office.

And that, of the active or current debts growing to maturity, ɪɔɔ dollars is considered "doubtful," and upon which we apprehend there will be ultimately a "probable loss" of ɪɔɔ dollars.

, *Cashier*.

President.

OFFICE BANK UNITED STATES,

18 .

} *Committee*.

Reconciliation.

May, 1835.—Total of suspended debt and real estate -			$40,996 48
Nov. 1835.—List of credits in last 6 months, viz:			
On account of bills discounted	$4,428 37		
On account of real estate -	2,825 00		
			7,253 37
			33,743 11
Additions in last 6 months, viz:			
To bills discounted - -	$925 00		
To real estate - -	3,756 57		
			4,681 57
Total of suspended debt and real estate - -			$38,424 68

List of bills discounted, protested, and remaining unpaid at the

Date of protest.	Drawers.	Endorsers.
1832.		*First class considered good.*
February 21	E. H. Barnham.....	Russel Barnam, Martin Phinney.....
March 28	David Kellogg.....	Nelson Kellogg, Elijah Kellogg.....
April 16	Enos Blin.....	Samuel Blin, Chester Blin.....
April 19	S. R. Brown.....	H. Strong, P. Atwater.....
May 1	Israel P. Richardson..	Lyman Southgate.....
May 7	Jon. Stone.....	B. McFarland.....
June 1	Israel P. Richardson..	Willard Daggett.....
Sept. 30	Lyman Perrigo.....	Asahel Northway, D. Castle, jr.....
October 18	David Tyler.....	Butler & Peaslee, Bean & Rolfe.....
October 15	Geo. Mott.....	Thomas Mott, Danford Mott.....
October 22	D. T. Taylor.....	John M. Towles, Benj. Mott.....
Novem'r 13	Duncan McGregor...	Charles Carron.....
Decemb'r 14	Gerry Munger.....	Cyrus Farrand, Gilbert Churchill.....
Decemb'r 27	Dan'l Richardson....	Asahel Northway, Wm. Wood.....
1834.		
February 11	S. R. Brown.....	D. Stearns, P. F. Walker.....
April 9	Joseph Sewell.....	Fred'k Hazen, T. Sewell, H. Leffingwell.....
April 9	Horace Houghton...	S. H. Morrill, Horatio Seymour.....
April 22	James Farnesworth..	Jacob Maech, J. P. Pennell.....
	James Farnesworth..	Heman Allen.....
May 16	Elijah Benton.....	Felix Benton & Azro Benton.....
August 10	David Moodie.....	H. T. Allen, Joseph Scott.....
Sept. 1	Pallas Phelps.....	J. Soule, Joel Barlow.....
Sept. 22	Cyrus Wilcox.....	Sam'l Nichols, Stephen Whitney.....
1835.		
August 3	L. H. Hubbard.....	Sam'l Nichols, J. P. Richardson.....
August 17	Cyrus Hotchkiss....	Ira Witters, John Kimpton.....
Sept. 15	Sam'l Warner.....	D. G. Sheple, Asa Lock.....
October 24	Ebenezer Wood.....	Sam'l Campbell, jr.....
1832.		*Second class considered doubtful.*
April 30	James Smith.....	Joseph Tucker, P. C. Tucker.....
May 2	Benj. Champlin.....	Enoch Palmer, Seth Barnam.....
May 23	Amos B. Cooper, 2d.	Amos B. Cooper and others.....
May 25	Joa. C. Parker.....	Gideon Parker, Harry Humphrey.....
	O. D. S. Gallup.....	E. Burgess, C. Trowbridge.....
July 7	Alanson Parker.....	G. Parker, Curtis Parker, J. Coleman.....
	Lucien Bliss.....	G. Parker, Curtis Parker.....
	I. W. Bishop.....	Horace Cobb.....

Amount of principal unpaid.	Probable loss of principal.	Contingent interest due.	Remarks.
$75 00	.....	$47 79	Mortgage.
750 00	.....	120 25	
300 00	.....	47 19	
200 00	.....	31 36	
250 00	.....	38 75	
75 00	.....	11 20	
81 00	.....	11 99	
150 00	.....	19 50	
280 29	.....	35 53	
200 00	.....	25 58	
250 00	.....	31 60	
100 00	.....	12 28	
100 00	.....	11 78	
175 00	.....	18 37	
125 00	.....	13 08	
500 00	.....	49 31	
150 00	.....	14 79	
200 00	.....	19 26	
300 00	.....	28 90	
986 34	.....	117 55	
200 00	.....	15 66	
140 00	.....	10 50	
150 00	.....	10 70	
100 00	.....	1 94	
125 00	.....	2 14	
400 00	.....	4 99	
300 00	.....	1 80	
$6,662 63		$753 72	
190 49	$190 49	40 86	
182 55	182 55	52 85	
1,450 00	500 00	306 17*	
180 00	180 00	37 95	
401 63	375 00	174 02	
570 00	400 00	131 50	
1,035 48	750 00	110 91	
$4,010 15	$2,578 04	$854 26	

*At the last term of our county court the action of ejectment brought by the bank against the occupant of Cooper's farm, (who has also a deed from Cooper, which was no doubt given for the purpose of defrauding creditors,) was decided in its favor, and the defendant has "reviewed" the case, as is customary here. It will come on again for trial at the next term of court, and I presume will then go to the Supreme Court for final decision. I have every reason to hope that we shall get the farm, which is said to be worth thirteen hundred dollars. I suppose it worth now from ten to eleven hundred.

Date of protest.	Drawers.	Endorsers.
1832.		*Third class considered bad.*
February 21	Russell Barnam.....	J. D. Hoag, Harlow Barnam.....
April 1	Harlow Barnam.....	J. D. Hoag, Lewis Barnam.....
April 17	Dan'l Palmer.....	J. D. Hoag, Russel Barnam.....
May 25	H. L. Goodrich.....	H. Langworthy, M. Langworthy.....
June 26	P. M. & J. H. Foster.	E. Boardman, W. B. Wells.....
July 15	Salmon Coleman	A. Parker, John Coleman.....
August 26	Edwin Brown.....	Harris Hoit, Levi Chapin.....
1834.		
February 7	James Duane.....	Rob't L. Duane.....
March 26	H. Lovely.....	G. W. Benjamin.....
		LIST OF DOMESTIC BILLS PROTESTED, &c.
		First class considered good.
March 4	C. B. Prindle.....	James Pilling.....
March 10	.....do.....	M. Hopper, C. Everest.....
March 10	.....do.....	....do.....do.....
April 4	.....do.....	James Pilling.....
		Third class considered bad.
August 2	H. B. Titus.....	John H. Titus.....
October 1	.....do.....	.....do.....
February 7	Robert L. Duane....	James Duane.....
1833.		
Decemb'r 18	J. Truesdell & Son...	Jos. Gary.....
1834.		
February 26	S. E. Burrows.....	J. Truesdell & Son.....

Continued.

Amount of principal unpaid.	Probable loss of principal.	Contingent interest due.	Remarks.
$497 00	$497 00	$160 07	D
350 00	350 00	66 92	D
275 00	275 00	59 74	D
70 38	70 38	26 54	D } Balance remaining after compromise.
210 87	210 87	55 51	D }
100 00	100 00	20 25	D
80 00	80 00	15 65	
2,250 00	2,250 00	245 13	
92 00	92 00	14 78	
$3,925 25	$3,925 25	$614 56	
370 00	.....	60 78	
228 74	.....	37 37*	
200 00	.....	32 66*	
475 00	.....	75 65	
$1,273 74		206 46	* Since last report C. Everest, the endorser, who is abundantly able to pay, made an assignment of his property to avoid the payment of these notes, and some others, for which he is holden. Our attorneys inform me that they have commenced suit in chancery on behalf of the other creditor, and have little doubt of being able to prove the assignment to be fraudulent, in which event we shall recover our debt also. The parties live in the State of N. York.
550 00	550 00	76 78	D
100 00	100 00	13 00	D
2,000 00	2,000 00	217 89	
4,884 48	4,884 48	238 25	D Balance remaining after compromise.
2,536 86	1,701 49	115 80	I am not informed of the situation of this claim. It is at the office N. York.
$10,071 34	$9,235 97	$661 72	

H.—L. MIFFLIN.

Received from Jeptha Shed, house and lot in city Vergennes	
Banking House	
Loss on real estate sold to Paris Fletcher, which I have omitted to charge to losses chargeable to contingent fund	
Amount of real estate per "state of the office"	

List of credits by payments on account of Suspended Debt

[Date of protest.]	Drawers.	Endorsers.
1835.		
July 31	Felix Benton	Azro Benton, Elijah Benton
July 31	O. D. S. Gallup	E. Bargess, C. Trowbridge
August 22	O. D. S. Gallup	E. Bargess, C. Trowbridge
October 27	G. Chipman and	C. Linsley
Novem'r 14	E. Blin	S. Blin, Bean & Rolfe, J. A. Barstow
Novem'r 14	Jonas Hobart	N. Pachard, Thomas Haynes
Novem'r 16	Curtis Parker	A. Parker, Gid. Parker, L. Bliss

List of credits on account of Real

1834.	
Decemb'r 23	Lands in Lincoln, sold to J. Atkins
1835.	
Novem'r 24	Lands in Middlebury, sold to Paris Fletcher

States, Burlington, [illegible] 30, 1835.

Cost.	Probable loss.	
$731 57	$331 57	
11,550 00		
200 00	200 00	
$12,481 57	$531 57	

since last semi-annual report, Burlington, November 30th, 1835.

Amount of principal paid.	Interest paid.	Remarks.
$500 00	.....	On account.
142 27	.....	do.
256 10	.....	do.
2,800 00	.....	In Real Estate.
500 00	$73 48	
150 00	16 63	
80 00	.....	On account.
4,428 00	90 11	

H.—L. MIFFLIN.

Estate since last semi-annual report.

$225 00	Bills receivable on interest.
2,600 00	
2,825 00	

Date of protest.	Drawers.	Endorsers.
1832.		*First class considered good.*
February 21	E. H. Burnham.....	Russel Barnam, Martin Phinney,.....
March 28	David Kellog.....	Nelson Kellog, Elijah Kellog,.....
April 16	Enos Blin.....	Samuel Blin, Chester Blin.....
April 19	S. R. Brown.....	H. Strong and P. Atwater.....
May 1	Israel P. Richardson.	Lyman Southgate.....
May 7	Jonathan Stone.....	B. McFarland.....D
June 1	Israel P. Richardson.	Willard Daggatt.....
Septemb'r 30	Lyman Perrigo.....	Asahel Northway, D. Castle, jr.....
October 18	David Tyler.....	Butler & Peaslee, Bean & Rolfe.....
October 15	Geo. Mott.....	Thomas Mott, Danford Mott.....
October 22	D. T. Taylor.....	John M. Towles, Benjamin Mott.....
Novemb'r 13	Duncan McGregor...	Charles Carron.....
December 14	George Manger.....	Cyrus Farrand, Gilbert Churchill.....
December 27	Daniel Richardson...	Asahel Northway, William Wood.....
1834.		
February 11	S. R. Brown.....	D. Stearns, P. F. Walker.....
April 9	Joseph Sewell.....	Fred. Hazen, Tabor Sewell, H. Leffingwell.....
April 9	Horace Houghton...	S. H. Morrill, Horatio Seymour.....
April 22	James Farnesworth..	Jacob Mœch, J. P. Pennell.....
April 22	James Farnesworth..	Heman Allen.....
May 16	Elijah Benton.....	Felix Benton and Azro Benton.....
August 10	David Moodie.....	H. T. Allen, Joseph Scott.....
Septemb'r 1	Pallas Phelps.....	J. Soule, Joel Barlow.....
Septemb'r 22	Cyrus Wilcox.....	Samuel Nichols, Stephen Whitney.....
1835.		
August 3	L. H. Hubbard.....	Samuel Nichols, J. P. Richardson.....
August 17	Cyrus Hotchkiss....	Ira Withers, John Kempton.....
Septemb'r 15	Samuel Warner.....	D. G. Sheple and Asa Locke.....
October 24	Ebenezer Wood.....	Samuel Campbell, jr.....
1832.		*Second class considered doubtful.*
April 30	James Smith.....	Joseph Tucker, P. C. Tucker.....
May 2	Benj. Champlin.....	Enoch Palmer, Seth Barnam.....
May 23	Amos B. Cooper, 2d.	Amos B. Cooper and others.....
May 25	Jonathan C. Parker..	Gideon Parker, Harry Humphrey.....
	O. D. S. Gallup.....	Elisha Burgess, C. Trowbridge.....
July 7	Alanson Parker.....	Curtis Parker, Gideon Parker, J. Coleman.....
	Lucien Bliss.....	Gideon Parker, Curtis Parker.....
	J. W. Bishop.....	Horace Cobb.....
1832.		*Third class considered bad.*
February 21	Russel Barnam.....	J. D. Hoag, Harlow Barnam.....
April 1	Harlow Barnam.....	J. D. Hoag, Lewis Barnam.....
April 17	Daniel Palmer.....	J. D. Hoag, Russel Barnam.....

Amount of principal unpaid.	Probable loss of principal.	Contingent interest due.	Remarks.
$75 60	.....	$47 79	Mortgage.
750 00	.....	120 25	
300 00	.....	47 19	
200 00	.....	31 36	
250 00	.....	38 75	
75 00	.....	11 20	
81 00	.....	11 99	
150 00	.....	19 50	
280 29	.....	35 53	
200 00	.....	25 51	
250 00	.....	31 60	
100 00	.....	12 28	
100 00	.....	11 78	
175 00	.....	18 37	
125 00	.....	13 08	
500 00	.....	49 31	
150 00	.....	14 79	
200 00	.....	19 26	
300 00	.....	28 90	
986 34	.....	117 55	Paid.
200 00	.....	15 66	
140 00	.....	10 50	
150 00	.....	10 70	
100 00	.....	1 94	
125 00	.....	2 14	
400 00	.....	4 99	Paid.
300 00	.....	1 80	
		753 72	
190 49	$190 49	40 86	
182 55	182 55	52 85	Bad.
1,450 00	500 00	306 17	
180 00	180 00	37 95	
401 63	375 00	174 02	
570 00	200 00	131 50	
	200 00		
1,035 48	750 00	110 91	$264 19 paid since.
497 00	497 00	110 07	D
350 00	350 00	66 93	D
275 00	275 00	59 71	D

Date of protest.	Drawers.	Endorsers.
1832.		
May 25	H. L. Goodrich.....	H. Langworthy, M. Langworthy.....
June 26	P. M. & J. H. Foster.	E. Boardman, N. B. Wells.....
July 15	Salmon Coleman.....	A. Parker, John Coleman.....
August 26	Edwin Brown.....	Harris Hoyt, Levi Chapin.....
1834.		
February 7	James Duane.....	Robert L. Duane.....
March 26	H. Loveley.....	G. W. Benjamin.....
	J. H. Rice.....	J. S. Foster, good.....
		LIST OF DOMESTIC BILLS, &c.
		First class considered good.
March 4	C. B. Prindle.....	James Pilling.....
March 10	.....do.....	M. Hopper, Calvin Everest.....
March 10	.....do.....	M. Hopper, Calvin Everest.....
April 4	.....do.....	James Pilling.....
		Third class considered bad.
August 2	H. B. Titus.....	John H. Titus.....
October 1	H. B. Titus.....	John H. Titus.....
1834.		
February 7	Robert L. Duane....	James Duane.....
1833.		
December 18	J. Truesdell & Son...	Joseph Gavy.....
1834.		
February 26	S. E. Barrows.....	J. Truesdell & Son.....

List of real estate at office Bank United States, Burlington.

	Cost.
Received from Jeptha Shedd, house and lot in city of Vergennes.....	$721 57
Banking house.....	11,550 00
	12,281 57
Loss on real estate sold to P. Fletcher, which I have omitted to charge to losses chargeable to contingent fund.....	200 00
	12,481 57

Continued.

Amount of principal unpaid.	Probable loss of principal.	Contingent interest due.	Remarks.
$70 38	$70 38	$24 54	D
210 87	210 87	55 51	D
100 00	100 00	20 25	D
80 00	80 00	15 65	
2,250 00	2,250 00	245 13	
92 00	92 00	14 78	
750 00	.....	.....	
370 00	.....	60 78	
228 74	.....	37 37	
200 00	.....	32 66	
475 00	{ rec'd since 431	75 65	Since last report, C. Everest, the endorser, who is abundantly good, has made an assignment of his property to avoid the payment of this debt and some others, for which he is holden. Our attorneys inform us that they have commenced suit in chancery, on behalf of the other creditors, and have little doubt of being able to prove the assignment to be a fraudulent one, and if they succeed we shall recover our debt also. The parties reside in the State of New York.
550 00	550 00	76 78	D
100 00	100 00	13 00	D
2,000 00	2,000 00	217 89	
4,884 48	4,884 48	238 25	D
2,536 86	1,701 49	115 80	At office, New York; have heard nothing for the last six months.

Suspended debt, U. S. Bank, 30th November, 1835.
Paper Z 2, X.
Filed May 7, 1847.

EDWARD H. PRENTISS, *Clerk.*

Paper referred to in the exceptions as introduced by the defendants and marked X.

EDWARD H. PRENTISS, *Clerk.*

BANK OF THE UNITED STATES,
May 2, 1838.

Circular.

SIR: In preparing your semi-annual statements of "suspended debt, and real estate" for transmission to this department, it is material, for the fuller information of the parent board, that the following general instructions should be strictly complied with, so far as they may be applicable to that class of effects at your office.

The lists should be made out in accordance with the pro formas herewith, preserving the order of classification hereinafter directed. They will, of course, include all the inactive debt, except what is charged to "losses chargeable to contingent fund," of which account you will report the balance only, in the place assigned to it, in the printed form of "recapitulation."

The aggregates of the several classes of accounts composing the "suspended debt, and real estate," reported in the "recapitulation," and also the balance of "losses chargeable to contingent fund," should correspond exactly, in amount, with what they are reported at in your "state of the office" at the same period.

Each note or debt, suspended at the period of making out your returns, should be reported under its proper head and class in the list, with the names, written in full, of every individual or firm liable for the payment of it.

The lists of "suspended debt, and real estate," after being made out in rough form by a clerk, should be carefully examined, corrected, and approved by yourself, the president, and a committee of your board; who will afterwards certify their correctness in "classification," the estimates of "probable loss" on each debt, the valuation of the "real estate," and the "explanatory remarks." A fair copy of these corrected lists should then be made, the aggregates condensed in the printed "recapitulation," and the whole be transmitted to me as early after the semi-annual period as practicable.

1st. The bills discounted. These should be divided into three classes, viz: Good, doubtful, and bad.

There should be included in the—

First class. (Good.) All the notes of which the payment is secured collaterally; or that will, in all reasonable probability, be ultimately paid. In the—

Second class. (Doubtful.) All notes of which the payment in full, at any subsequent period, is doubtful; but from which you expect, eventually, to receive some portion of the debt. In the—

Third class. (Bad.) All notes of which you have no prospect of receiving any part, unless there should be some favorable change in the circumstances of the debtors.

Such of the notes in this class, as shall be considered, by yourself and the examining committee of your board, as entirely desperate, and from which you have no distant hope of ever receiving any part what-

over, (which will include all balances of compromised debts, and absolute releases, where the consideration has been fully paid up or secured,) you will designate on the list, by affixing to their amount, in red ink, the letter "D." The parent board can then determine what further disposition shall be made of those debts.

The "probable loss of principal," on each debt or note of the "doubtful" and "bad" classes, under every head of account in the lists, (and also upon the real estate,) should be carefully estimated by yourself and the examining committee of your board, and the amount thereof stated, in the proper column, opposite to the debt upon which the loss is estimated; so that the estimated "loss of principal" on each debt may be distinctly ascertained by the parent board, (to which it is frequently of importance to be known,) and the aggregate of estimated "loss of principal," on the entire "suspended debt and real estate," be exhibited in the printed "recapitulation."

The contingent interest. The interest due and unpaid on each note, or debt suspended, should be separately calculated, and the amount stated in the proper column, opposite to the note or debt on which it is due; to show, at the semi-annual periods, the total amount of each debtor's liability to the bank; and the aggregate, on each class, be exhibited in the printed "recapitulation."

The explanatory remarks. In the space assigned on the list for this purpose, should be briefly noted, opposite to each debt, the measures that have been pursued for its recovery, viz: Whether suit has been instituted; judgment obtained; execution issued, and what return; further time allowed, and if so, how long; additional security obtained, and if so, its kind and probable value; and such other information as will keep the board regularly advised, from time to time, of the leading circumstances pertaining to those debts, and of the progress made in their settlement.

It will not be necessary to repeat, at the semi-annual periods, any "remarks" which have been made in former reports; but it is important that you carefully note in substance whatever has taken place, in relation to each debt, affecting its character or value, with the progress made in its settlement since your last semi-annual return. Where no change has taken place, you will state "same as last report."

2d. The domestic bills of exchange should be classified and reported in precisely the same manner, and be governed by the same rules as the "bills discounted."

3d. Notes on a pledge of stock of this bank should be reported in the same manner, and be governed by the same rules, as "bills discounted," except the classification, which should be omitted.

4th. Bonds and mortgages (if any at your office), not included under any other title or head in the "recapitulation," should be reported in the same "form" of "bills discounted," placing the name of the "obligors" in the space allotted to "drawers and endorsers," and exhibiting, in the proper columns, the "amount of principal unpaid," the

"probable loss of principal," the "contingent interest due," and the "explanatory remarks. No classification of these will be necessary.

5th. Cash deficiencies, including counterfeits. Report these in the "forms" of "bills discounted," date, name, amount, probable loss, interest, and explanatory remarks. No classification necessary.

Sixth. Overdrafts. Report these in the same manner.

Seventh. Debts not otherwise classed. All debts suspended, and not coming properly under any of the preceding heads or titles of account, should be placed under this head, and reported in the form and manner of "bills discounted," and be governed by the same general rules, except the classification, which should be omitted.

Eighth. Real estate, including the banking-house. The list of real estate should be made out in numerical order, according to the pro forma herewith, embracing in detail all the "real estate" belonging to this bank, at your office, as charged in your "weekly statement." Furnish a concise description of each piece of property from the title papers, showing its location, quantity, and improvements. In the space designated for "explanatory remarks," note any circumstances that may have occurred in the six months preceding the date of the list, in relation to the property, which may probably have an effect upon its value. State, also, the amount of tax at which it is assessed for the current year. In the column "when received," insert the date of the deed of conveyance to the bank, and in that "from whom received," insert the name of the grantor.

The "estimated present value" of each item of real estate in the list, should be made by yourself and the examining committee of your board, and the amount stated in the proper column. The aggregate amount of the list in the column of "cost to the bank," should correspond exactly with the item of "real estate" in your "state of the bank" at the same period, and the difference between the total amounts of the columns of "cost to the bank," and "estimated present value," will show the "probable loss," or "probable gain," on the real estate, at your office. If of "loss," state the amount in its proper place in the "recapitulation," and if of "gain," deduct the amount from the total "probable loss" reported in the "recapitulation."

It will not be necessary to repeat at the semi-annual periods, the "description" and "explanatory remarks" of each piece of property, for all that has before been reported and described as above directed; it will be sufficient to refer, in the space allotted for "description," to the list and date on which such description has been previously given. On the same line with this reference, you can then give the "explanatory remarks," if any to be made, the assessed tax, the "number," (designating the property described on a former list,) the date "when received," the name of the grantor "from whom received," the "cost to the bank," the "estimated present value," and the "annual rent." All the real estate received at your office, and not before reported, you will furnish a concise description of, as above directed, with the consecutive "number" in the proper column, for its future designation.

The ordinary repairs, taxes, insurance, &c., on the real estate, you will charge at the time of payment to "expenses," and all expenditures for improvements, which go directly and decidedly to enhance the value of the property, you will charge to the cost of the particular estate improved.

The rents received you will place to the credit of the account of "rents received," at the semi-annual periods; balance that account, and exhibit the aggregate in your "profit and loss statement," in the same manner you now do the "discounts," "exchange," and "interest."

In all sales of real estate, where the price received for the property sold is more than its "cost to the bank," you will credit the excess or gain to the account of "losses chargeable to the contingent fund;" and where the price received is less than the "cost to the bank," you will charge the deficiency or loss to that account.

The parent board, wishing in all cases to avoid the difficulties and perplexities which sometimes arise from the practice of giving general warrant titles, has determined, that in *in* all sales of real estate belonging to the bank, its officers shall stipulate at the time of sale, (which must be made subject to the ratification of the parent board,) to give such title only as the bank has, and no other. Its counsel has, in consequence, prepared a form of deed to be used by the bank, of which I have had a considerable number printed, and will send you some copies for your future government and adoption, so far as they may be found by your solicitor to accord with the local laws of your State.

Ninth. Losses chargeable to the contingent fund. At the semi-annual periods, report the balance of this account, in the place assigned to it in the printed "recapitulation." No debt must be charged to this account which shall not have been previously reported desperate in your list, nor until you receive instructions to that effect from this department.

Any payments made on account of debts charged to this account, you will make a distinct report of to me, at the semi-annual periods, in the "form" of "list of credits".

Tenth. The list of credits on account of the "suspended debt and real estate," should embrace in detail, according to the pro forma herewith, all the credits given on those accounts within the six months immediately preceding the date of the return, and not before reported; whether for payments, compromises, or releases; and also the debts charged to "losses chargeable to the contingent fund," to enable me to give the corresponding credits to the individual accounts in our book of your office returns.

Eleventh. Compromises. Invite occasionally the debtors of the "doubtful" and "bad" classes, to submit to your board propositions for compromise of their liabilities, by the payment in money, or by giving security for the payment, within a reasonable time, of such a proportion thereof, as shall be fairly commensurate with their present means and future prospects in business; to be released from responsibility for

the residue on payment of such part of their liabilities as shall be mutually agreed upon. All compromises of this kind, where a part of the debt is to be surrendered, must be made subject to the ratification of the parent board. For this purpose, a brief statement of the case, with an extract from the minutes of your board, should be transmitted to me for confirmation here.

Twelfth. Partial payments. Where there is no hope of finally getting the whole of a debt paid to the principal and interest, you will apply whatever payments are made to the reduction of the principal only. The contingent interest actually due on such debt, should, nevertheless, be accurately calculated at the semi-annual periods, and returned in the proper column, so that the parent bank may know the amount of principal and interest actually due from every debtor at the semi-annual periods.

Thirteenth. Suits at law. In all cases of appeal to the Supreme Court of the United States at Washington, inform me at the time of the parties, the case and grounds of appeal, that the parent board may take order thereon if necessary, and our counsel be apprised in season of the cases in which he will be called upon to act in our behalf.

The law expenses incurred in cases where we cannot recover them back in the "costs," and which are totally lost, you will charge at the semi-annual periods to the "expense account," and such expenses as will be again refunded to us, in the final settlement of the judgment, you will continue in your ledger, under the title of "law expenses".

Fourteenth. All communications to the parent bank on matters relating to the "suspended debt and real estate," or to the individual accounts coming under these general titles, and reported in the lists, should always be the subject of a separate letter, unconnected with other matter belonging to the active concerns of the bank, and be directed to this department.

I am, very respectfully, yours, &c.,

To

Office Bank United States.

This is the circular marked "G," referred to by the affirmant, Lloyd Mifflin, in his answer to the seventh interrogatory on the part of the plaintiff.

WM. RAWLE,
W. A. PORTER,
Commissioners.

$5,000. On the first day of June next, value received, we promise to pay John and John H. Peck, Wyllys Lyman and George P. Marsh, or order, five thousand dollars at the Union Bank, city New York.

Burlington, Vt., March 25, 1837. LYMAN & COLE.

June 4.

G. — L. Mifflin.

I—John Ramsey.

1966. New York, 18th August, 1838, received on account of the within note, thirteen hundred and fourteen $\frac{1}{100}$ dollars,
$1,314 16. For M. ROBINSON, *Agent*.
WM. LAMM.

New York agent received on account of within, one hundred and fifty dollars.
$150. For M. ROBINSON, *Agent*.
WM. LAMM.

November 20, received on account of the within amount, Denuke & King's note, ten hundred and seventeen $\frac{50}{100}$ dollars,
$1,017 50. For M. R., *Agent*.
WM. LAMM.

December 26, received on account of the within three hundred and three $\frac{46}{100}$ dollars,
$303 46. For M. R., *Agent*.
WM. LAMM.

J. & J. H. Peck, Wyllys Lyman, Geo. P. Marsh, C. F. Warner, *Cash*.

Pay M. Robinson, esq., agent, or order.
J. ANDREWS, *Cash*.

Pay Merchants' Bank for B. U. S.

This is the note marked "I," referred to by the deponent, John Ramsey, in his answer to the third interrogatory on the part of the plaintiffs.
WM. RAWLE,
W. A. PORTER,
Commissioners.

UNITED STATES OF AMERICA,
State of New York, ss:

On the third day of June, in the year of our Lord one thousand eight hundred and thirty-seven, at the request of the Merchants' Bank, I, John D. Campbell, notary public, duly admitted and sworn, dwelling in the city of New York, did present the original note, (a true copy whereof is on the other side written,) at the Union Bank, to the paying teller, and demanded of him payment. He answered that it could not be paid for want of funds of the makers. Whereupon, I, the said notary, at the request aforesaid, did protest, and by these presents do publicly and solemnly protest, as well against the makers and endorsers of the said note as against all others whom it doth or may concern, for exchange, re-exchange, and all costs, damages, and interest, already incurred, and to be hereafter incurred, for want of payment of the said note.

Thus done and protested, in the city of New York aforesaid, in the presence of John Doe and Richard Roe, witnesses. In testimonium veritatis.
JOHN D. CAMPBELL,
Notary Public, Merchants' Bank.

$5,000. On the first day of June next, value received, we promise to pay John & John H. Peck, Wyllys Lyman, & George P. Marsh, or order, five thousand dollars, at the Union Bank, city of New York.

Burlington, Vt., March 25, 1837.

LYMAN & COLE.

Endorsers.

1962. J. & J. H. Peck, Wyllys Lyman, George P. Marsh, C. J. Warner, *Cash'r.*

Pay M. Robinson, esq., agent, or order.

J. ANDREWS, *Cash'r.*

Pay Merchants' Bank for B. U. S.

BANK OF THE UNITED STATES,
March 18th, 1837.

GENTLEMEN: A short absence from the city has prevented an earlier reply to your favor of the 6th inst. It was duly submitted to the board of directors, who are willing to discount $15,000 of your business paper not having more than 60 days to mature, to meet your payment due on the 1st proximo. I hope this may be satisfactory to you, and am, with true regard, your obedient servant,

(Signed) J. COWPERTHWAIT, *2d A. Cash'r.*

Messrs. LYMAN & MARSH,
Burlington, Vermont.

This is the paper marked "J," referred to by the deponent, John Ramsey, in his answer to the third interrogatory on the part of the plaintiffs.

WILLIAM RAWLE,
WM. A. PORTER.
Commissioners.

BANK OF THE UNITED STATES,
Suspended Debt & R. E. Dep't, 2d Dec., 1840.

DEAR SIR: Your favor of the 25th ult. is at hand, covering the long promised assignment of Joseph Martin to Bigelow and Sheppard, of the bond and mortgage of Samuel P. Lyman, to him, dated 19th June, 1836; and which you received in settlement of the debt of Eddy and Chubb, at the late office B. U. S., at Burlington.

And informing me also, that, at the last October term of your court, judgment against Phelps Smith was obtained, and by which the payment of the debt has been secured in some 10 or 12 months hence.

Nothing has been said by you for some time about the debt of Catlin and others, in New York State; for the payment of which you are liable for some $1,500 or $1,600. Catlin manifested, some time since, a disposition to compromise the claim by a conveyance of some

J.—John Ramsey.

lands to the bank, but the bank did not consider it expedient to accept his proposal. I should like much to have this debt put in a proper train of settlement, and will thank you to let me hear from you about it soon.

Very respectfully, yours,

(Signed) HERMAN COPE, *Sup't.*

JOHN PECK, esq.,
Agent, B. U. States, Burlington.

This is the paper marked "K," referred to by the deponent, John Ramsey, in his answer to the fourth interrogatory on the part of the plaintiffs.

WILLIAM RAWLE,
WM. A. PORTER,
Commissioners.

K—John Ramsey.

Doctor John Peck in relation to the bill of J. M. Catlin and others, for $1,500.

BURLINGTON, 18*th Dec.*, 1840.

DEAR SIR: Your favor of 2d inst. is received. It is our intention to make a remittance in January next, on the debt of L. & M. & J. & J. H. P., at which time the Catlin paper of $1,500, may be charged upon the remittance, or what it appears to me would be better added to our present debt.

Very respectfully, JOHN PECK.

L—John Ramsey.

This is the letter marked "L," referred to by the deponent, John Ramsey, in his answer to the fourth interrogatory on the part of the plaintiffs.

WILL'M RAWLE,
WM. A. PORTER,
Commissioners.

HERMAN COPE, esq., 183¼
Cashier, U. S. B., Philadelphia, Penn.

BURLINGTON, *Dec.* 19.

M—John Ramsey.

OFFICE OF THE TRUSTEES, (*4th Sep.*, 1841,)
Of the Bank of the United States, 12*th May*, 1842.

DEAR SIR: I have the pleasure duly to receive your favor of the 29th ult., in answer to the information requested in relation to the suspended debt of the late office of the Bank of the United States at Burlington.

You were regularly apprised, by letter, of all payments made to us on account of the Faulkner debt, and should have rendered your ac-

count for any claim you may have against the Bank of the United States, before the assignments were made by it. As you have that account still in charge for collection, you can, perhaps, offset your claim, when adjusted or allowed by the bank, in some way by which the trustees can feel authorized to settle it with you; and with that view I will thank you to transmit to me a statement of your claim for the action of the board of directors and trustees.

In my letter of the 20th inst., I gave you the dates and amounts of all the payments made to us on account of the Faulkner debt.

Please find enclosed statements of your two accounts with the trustees: the first showing a balance due from you on the 23d March, 1842, of twenty-four thousand six hundred and ninety-nine $\frac{94}{100}$ dollars; and the other, a balance due on the 1st of May, 1842, of twenty-seven hundred and fifty-five dollars and thirty-five cents.

Very respectfully and truly, yours, et ca.,

(Signed) HERMAN COPE,
Agent for J. Robertson et al., Trustees.

JOHN PECK, esquire, *Agent, Burlington.*

This is the paper marked "M," referred to by the deponent, John Ramsey, in his answer to the fourth interrogatory on the part of the plaintiffs.

WM. RAWLE,
WM. A. PORTER,
Commissioners.

M—John Ramsey.

OFFICE OF THE TRUSTEES, (*4th Sep.*, 1841,)
Of the Bank of the United States, 25th May, 1844.

GENTLEMEN: Nearly one year has elapsed since you have made us any payment at all on the very large balance due upon your long standing indebtedness to us; and I begin to fear, almost, that our indulgence, instead of stimulating you, as we had hoped it would, to the use of greater exertions for the early settlement of our claim, has only had the opposite effect of inducing a relaxation on your part of the proper efforts necessary for that purpose.

It is not necessary for me to say to you, that our duty as trustees requires of us to collect the outstanding claims of the Bank, included in our assignment, as rapidly as it can be done; and in every case, where it can be accomplished in a reasonable time without the aid of judicial proceedings, we must, however unpleasant to us individually, in proper time avail ourselves of such aid to effect the purpose. But in your case we should feel, individually, more than ordinary regret in being compelled, in a measure, to resort to that remedy; and we hope, therefore, in consideration of all the indulgence which has already been extended to you, that you will now make the necessary provision, without further delay, for the early payment of the balance due, as stated in the account we rendered you on the 8th November last, of $12,680 $\frac{44}{100}$, and interest, together with the b[illegible]nce due from Wyllys Lyman,

Lyman and Cole, J. & J. H. Peck, and George P. Marsh, of $2,755 ⅔, with interest from the 1st of May, 1842, per account rendered you on the 26th of April of that year.

Very respectfully and truly yours, et ca.

(Signed) HERMAN COPE,
Agent for J. Robertson et al., Trustees.

Dr. JOHN PECK, and his associates liable.
Burlington, Vermont.

This is the paper marked "N," referred to by the deponent, John Ramsey, in his answer to the fourth interrogatory on the part of the plaintiffs.

WILL'M RAWLE,
WM. A. PORTER,
Commissioners.

Will'm Rawle, Wm. A. Porter, Commissioners. N—John Ramsey.

Copy—().

Mess. John Peck, W. Symonds, G. P. Marsh and John H. Peck, to Bank of the United States, for the following debts, at the Burlington office:

1832.		
Feb. 21	To E. H. Burnham, Russel Barnam, Martin Phinney.....	$ 75 00
1833.		
March 28	To David Nelson & Elijah Kellogg	750 00
April 16	To Enos, Samuel & Chester Blin.....	300 00
April 19	To S. R. Brown, H. Strong, P. Atwater.....	200 00
May 1	To Israel P. Richardson, Lyman Southgate.....	250 00
May 7	To Jonathan Stone, B. McFarland.....	75 00
June 1	To Israel P. Richardson, Willard Daggett.....	81 00
Sept. 30	To Lyman Perrigo, Asahel Northway, D. Castle, jr.....	150 00
Oct. 18	To David Tyler Butler & Peaslee, Bean & Rolpe.....	280 29
Oct. 15	To George Thomas and Danford Mott.....	200 00
Oct. 22	To D. T. Taylor, John M. Towles, B. Mott.....	250 00
Nov. 13	To Duncan McGregor, Charles Carron.....	100 00
Dec. 14	To Gary Manger, Cyrus Farrand, G. Churchill.....	100 00
Dec. 27	To D. Richardson, A. Northway, W. Wood.....	175 00
1834.		
Feb. 11	To Samuel R. Brown, D. Stearns, P. F. Walker.....	125 00
April 9	To Joseph Sewell, F. Hazen, T. Sewell, H. Leffingash.....	500 00
April 9	To Horace Houghton, S. H. Morrill, H. Seymour.....	150 00
April 22	To James Farnsworth, Heman Allen.....	300 00
April 22	To James Farnsworth, Jacob Maeck, J. P. Pennel.....	200 00
April 10	To David Moodie, H. T. Allen, Joseph Scott.....	200 00
Sept. 1	To Pallas Phelps, J. Soule, Joel Barlow.....	140 00
Sept. 22	To Cyrus Wilcox, Samuel Nichols, Stephen Whitney.....	150 00
1832.		
April 30	To James Smith, Joseph Tucker, P. C. Tucker.....	190 49
May 2	To Ps. Champlain, E. Palmer, Seth Barnam.....	182 55
May 23	To A. B. Cooper, 2d, A. B. Cooper and others.....	1,450 00
May 25	To J. C. Parker, Gideon Parker, H. Humphrey.....	180 00
May 25	To D. S. Gallup, C. Burgess, C. Trowbridge.....	1 63
1832.		
May 25	To S. Willey, O. D. S. Gallup, C. Burgess, C. Trowbridge..	400 00
June 8	To Lucien Bliss, G. Parker, Curtis Parker.....	220 00
July 7	To A. Parker, C. Parker, G. Parker. J. Coleman.....	350 00
Feb. 18	To Isaac W. Bishop, Horace Cobb.....	771 29
	Carried forward.....	8,497 25
	Amount brought forward.....	8,497 25
1833.		
Feb. 23	To R. Barnam, J. D. Hoag, Harlow Barnam	497 00
April 1	To H. Barnam, J. D. Hoag, Lewis Barnam.....	350 00
April 17	To D. Palmer, J. D. Hoag, R. Barnam.....	275 00
May 25	To H. S. Goodrich, L. & M. Langworthy.....	70 38
June 26	To P. M. & S. P. Foster, E. Bordman, N. B. & H. Wells....	210 87
July 15	To S. Coleman, A. Parker, John Coleman.....	100 00
Aug. 26	To Edwin Brown, Harris Hoyt, Levi Chapin.....	80 00
1834.		
Feb. 7	To James Duane, R. L. Duane.....	2,250 00
1831.		
March 26	Horace Lovely, G. W. Benjamin	92 00
1833.		
April 4	To C. B. Prindle, James Pilling.....	414 00
March 10	To C. B. Prindle, M. Hopper, Calvin Everest.....	428 74
Aug. 2	To H. B. Titus, John Titus.....	550 00
Oct. 1	To H. B. Titus, John Titus.....	100 00

STATEMENT—Continued.

1834.		
Feb. 7	To Robert L. Duane, John Duane	$2,000 00
1833.		
Dec. 18	To J. Truesdell & Son, Joseph Gary	
1834.		4,884 48
Jan. 29	To J. Truesdell & Son, Joseph Gary	
Feb. 2	To J. Truesdell & Son Joseph Gary	
Feb. 26	To Silas E. Burrows, J. Truesdell & Son	1,531 49
Feb. 26	To Silas E. Burrows, J. Truesdell & Son	1,005 37
1835.		
Aug, 3	To L. H. Hubbard, S. Nichols, J. P. Richardson	100 00
Aug. 17	To Cyrus Hotchkiss, Iva Witters, G Kimpton	125 00
Sep. 15	To Samuel Warner, G. D. Sheple, Asa Lock	
Oct. 24	To Ebenezer Ward, Samuel Campbell, jr	300 00
Dec. 1	To Julius H. Rice, Timothy Foster, John S. Foster6	750 00
1836.		
March 1	To John Herrick, Samuel Nichols	100 00
March 1	To S. M. Parsons, E. & T. Mills	150 00
March 1	To M. M. Standish, J. Miller, Elijah White	1,600 00
March 1	To Patterson & Barnett, W. Wells & Co	152 22
1836.		
March 1	To John Lathrop, William Wells & Co	205 45
	To cost of banking house	11,550 00
		38,369 25

E. E. BANK OF THE UNITED STATES, 1 *April*, 1836.

This is the paper marked "O," referred to by the witness, John Ramsey, in his answer to third cross interrogatory on the part of the defendants.

WILLIAM RAWLE,
WM. A. PORTER,
Commissioners.

Suspended debt.

Extract from the proceedings of the Board of Directors of the Bank of the United States, as entered upon their minutes of the 16th January, 1835.

"BANK OF THE UNITED STATES,
16th January, 1835.

"A letter to the cashier, from Thomas Hockley, cashier of the office at Burlington, dated 10th January, 1835, transmitting a resolution adopted by the board of that office, recommending the acceptance of the proposal of John Truesdell & Son, of Troy, to give them a discharge upon payment of 50 per cent. of their debt of $10,500 to the bank, was read, and upon motion, it was

"Resolved, that the compromise with J. Truesdell & Son, recommended by the board of the office at Burlington, be approved and confirmed."

P.—John Ramsey.

This is the paper marked P, referred to by the defendant, John Ramsey, in his answer to the fourth cross interrogatory on the part of the defendants.

WILLIAM RAWLE,
WM. A. PORTER,
Commissioners.

Compromise with Jno. Truesdell & Son, read Jan. 16th, and compromise approved and confirmed. (*Ans'd 17th.*)

OFFICE BANK U. STATES,
Burlington, Jan. 10, 1835.

DEAR SIR: I hand you annexed the resolutions adopted at a special meeting of our board this morning.

The debt of John Truesdell & Son is $10,500, which, until within a month has been supposed good by ourselves and Stephen Warren, esq., and others, gentlemen of Troy, well acquainted with the concern. When the period arrrived, however, for the collection, by the assignees of debts due to the firm, it soon appeared that the estate was insolvent. Messrs. John Peck and Harvy Bradley, members of our board, have lately been at Troy, and examined very particularly the condition of the estate, and give a decided opinion that 50 per cent. is as much as will be realized.

It appears, that of the debts due to T. & Son, the present ascertained loss is $87,000, leaving $18,868 which is not known to be bad, nor has it yet been ascertained to be good. Their real estate in Troy is estimated at $14,500; these, together with $10,000 (estimated) in leather and in cash, and bank stock $3,200, deducting about $5,000 for assignees' commissions, comprise the means to be appropriated to the payment of $51,000. Upon this view of the case, our board decided unanimously to accept their proposal. My own opinion does not coincide

with this decision, although I have great confidence in the judgment of the gentlemen who have examined the affairs in Troy. I should rather take the risk of the soundness of that portion of the debts ($18,868,) not ascertained to be certainly bad; for, should that amount be collected, and proper attention given to the real estate, which is advertised for sale on the 26th inst., a greater portion of the debt due to the bank would be saved. This is uncertain, however; it may be that of that amount a very small portion will be recovered.

It is important that we should be advised of your decision as soon as possible, in order that (if the parent board refuse to ratify the compromise) an agent may attend the sale in Troy of the real estate, for the purpose of preventing a sacrifice; and should the compromise be confirmed, it is necessary that Truesdell's friends should be informed of the fact, previous to the sale.

I am, very respectfully, your obedient servant,

T. HOCKLEY, *Cashier.*

To S. JAUDON, esq.,
Cashier, B. U. S.

I should mention that the Merchants and Mechanics' Bank of Troy, holding Truesdell's paper to the amount of $7,000, have as yet declined the offered terms.

OFFICE BANK U. STATES,
Burlington, January 10, 1835.

At a special meeting of the board of directors, held this day, it was, on motion,

Resolved, unanimously, that this board do accept the proposal of John Truesdell & Son, of Troy, namely, to give them a discharge upon payment of fifty per cent. of the debt due by them to the bank: Provided, that the parent board approve thereof.

Resolved, that the Cashier forward a copy of the foregoing resolution to the parent bank.

Extract from the minutes.

T. HOCKLEY, *Cashier.*

Office at Burlington; debt of J. Truesdell & Son, $10,500, (not returned on the list of suspended debt.)

According to Mr. Hockley's letter, herewith,

Their debts amount to - - - -		$51,000
Their real estate in Troy, valued at - -	$14,500	
Leather, " " - -	10,000	
Cash and bank stock " " - -	3,200	
	27,700	
Deduct assignees' commissions, say - -	5,000	
Amount of assets, (good) -	22,700	22,700

Q.—John Ramsey.

Outstanding claims, not known certainly to be bad - - - - - - $18,868

18¾.

SAMUEL JAUDON, Esquire,
Cashier Bank U. S.
Philadelphia.

{ Burlington, Jan. 12, Vt. }

This is the paper marked "Q," referred to by the deponent, John Ramsey, in his answer to the fourth cross interrogatory on the part of the defendants.

WILLIAM RAWLE,
WM. A. PORTER,
Commissioners.

Office of the Trustees (4th Sept., 1841,) of the Bank of the United States, 12th May, 1842.

Dear sir: I have had the pleasure duly to receive your favor of the 29th ulto., in answer to the information requested in relation to the suspended debt of the late office of the Bank of the United States, at Burlington.

You were regularly apprised, by letter, of all payments made to us on account of the Faulkner debt, and should have rendered your account for any claims you may have against the Bank of the United States, before the assignments were made by it. As you have that account still in charge for collection, you can perhaps offset your claim, when adjusted or allowed by the bank, in some way, by which the trustees can feel authorized to settle it with you; and with that view I will thank you to transmit to me a statement of your claim, for the action of the board of directors and trustees.

In my letter of the 20th ulto., I gave you the dates and amounts of all the payments made to us on account of the Faulkner debt.

Please find enclosed statements of your two accounts with the trustees; the first showing a balance due from you on the 23d March, 1842, of twenty-four thousand six hundred and ninety-nine $\frac{84}{100}$ dollars; and the other, a balance due on the 1st of May, 1842, of twenty-seven hundred and fifty-five $\frac{84}{100}$ dollars.

Very respectfully and truly, yours,
Signed, HERMON COPE, *Agent*,
For ROBERTSON et al., *Trustees.*

John Peck, esquire, *Agent*,
Burlington.

This is the paper marked "R," referred to by the affirmant, Thomas B. Taylor, in his answer to the third interrogatory on the part of the plaintiffs.

WILLIAM RAWLE,
WM. A. PORTER,
Commissioners.

R.—Tho. B. Taylor.

BURLINGTON, *4th June*, 1842.

H. COPE, esq., *Agent.*

DEAR SIR: Your favor of 12th ult., came by due course of mail, but my absence has prevented an early reply; you may have advised of the collection in part of the Faulkner note, made 2d March, 1840; but surely I have rec'd none previous to yours of 20th April; and I had thonght 'twould be most acceptable to you to receive my claim when I should have brought the Phelps Smith matter to a close, it being the last of that portion of the floating suspended debt, of which Eddy and Chubb's paper formed a large portion, and for which I make the claim of $600.

In your account vs. Pecks & Lyman and Marsh, rendered 12th ult., we find you have not withdrawn certain demands which were sold to us, but controlled by the B. U. S. You may recollect, that soon after you furnished us with a statement of our purchase of the B. U. S., your attention was called to the fact, that you had controlled, viz:

J. Truesdell & Son; Joseph Gary notes.

Due 18th December, 1833, 29th January, 1834, 2d February, 1834,	By average, 7th Jan'y, 1834,	$4,884 48

Silas E. Burrows; J. Truesdell & Son.

26th February, 1834, - - - -	1,531 49
26th February, 1834, - - - -	1,005 37

Very truly, and respectfully,

JNO. PECK, *Agent.*

S.—Thos. B. Taylor.

This is the paper marked "S," referred to by the affirmant, Thomas B. Taylor, in his answer to the third interrogatory on the part of the plaintiffs.

WILLIAM RAWLE,
WM. A. PORTER,
Commissioners.

Single. 18¾.

Burlington, June 5. Vt.

HARMON COPE, Esq.,
U. S. Bank,
Philadelphia,
Penn.

Messrs. John Peck, Wyllys Lyman, George P. Marsh, and John H. Peck, in account with the Bank of the United States.

1838.			
April 4	To note due this	date	$35,500 00
July 24	To interest to	do 3 months 20 days	650 83
	To balance due	do	36,150 83
	By payment	do	5,000 00
	To balance due	do	31,150 83
October 9	To interest to	do 2 months 16 days	394 58
	To balance due	do	31,545 41
	By payment	do	887 50
	To balance due	do	30,657 91
1839.			
Sept. 10	To interest to	do 11 months 1 day	1,691 30
	To balance due	do	32,349 21
	By payment	do $7000 and interest refunded	7,006 13
	To balance due	do	25,343 08
1840.			
Jan'y 13	To interest to	do 4 months 3 days	519 53
	To balance due	do	25,862 61
	By payment	do	1,314 75
	To balance due	do	24,547 86
March 11	To interest to	do 1 month 27 days	233 21
	To balance due	do	24,781 07
	By payment	do	624 96
	To balance due	do	24,156 11
April 4	To interest due	do 28 days	112 73
	To balance due	do	24,268 84
1839.			
April 4	To note due	do $35,500	
1840.			
April 4	To interest to	do 12 months, 2,130	
			37,630 00
	To note due	do	35,500 00
	To balance due	Bank of the United States this date	97,398 84

E. E.

BANK OF THE UNITED STATES, 22 *April*, 1840.

[The above, in the original, marked across the face with black lines.]

STATEMENT—Continued.

1840.			
April 4	To balance of account due this date, as rendered 22d inst.		$97,398 84
April 22	To interest to this date	18 days	292 19
	To balance due	do	97,691 03
	By payment	do	415 00
	To balance due	do	97,276 03
May 10	To interest to	do 18 days	291 83
	To balance due	do	97,567 86
	By payment	do	450 00
	To balance due	do	97,117 86
June 10	To interest to	do 1 month 0 days	485 59
	To balance due	do	97,603 45
	By payment	do	750 00
	To balance due	do	96,853 45
June 17	To interest to	do 7 days	113 00
	To balance due	do	96,966 45
	By payment	do	8,800 00
	To balance due	do	88,166 45
June 20	To interest to	do 3 days	44 08
	To balance due	do	88,210 53
	By payment	do	365 63
	To balance due	do	87,844 90
August 10	To interest to	do 1 month 21 days	746 68
	To balance due	do	88,591 58
	By payment	do	5,400 00
	To balance due	do	83,191 58
August 11	To interest to	do 1 day	13 87
	To balance due	do	83,205 45
	By payment	do	465 00
	To balance due	do	82,740 45
August 18	To interest to	do 7 days	96 53
	To balance due	do	82,836 98
	By payment	do	460 00
	To balance due	do	82,376 98
Sept. 19	To interest to	do 1 month 1 day	425 61
	To balance due	do	82,802 59
	By payment	do	645 26
	To balance due	do	82,157 33
Sept. 25	To interest to	do 6 days	82 16
	To balance due	do	82,239 49
	By payment	do	135 00

STATEMENT—Continued.

1840.	To balance due this date		$82,104 49
Sept. 26	To interest to	do.....1 day	13 69
	To balance due	do	82,118 17
	By payment	do	189 92
	To balance due	do	81,928 25
October 1	To interest to	do.....5 days	68 27
	To balance due	do	81,996 52
	By payment	do	175 08
	To balance due	do	81,821 44
Dec. 2	To interest to	do.....2 months 1 day	831 85
	To balance due	do	82,653 29
	By payment	do	1,650 00
	To balance due	do	81,003 29
Dec. 8	To interest to	do.....6 days	81 00
	To balance due	do	81,084 29
	By payment	do	500 00
	To balance due	do	80,584 29
1841.			
Jan'y 18	To interest to	do.....1 month 10 days	537 23
	To balance due	do	81,121 52
	To J. M. Catlin et al., with interest to date		2,053 11
	To balance due this date		83,174 63
	By payment	do	2,008 93
	To balance due	do	81,165 70
April 5	To interest to	do.....2 months 18 days	1,055 16
	To balance due	do	82,220 86
March 31	By payment	do.....350 00	
April 5	By payment	do.....1,070 00	
			1,420 00
	To balance due	do	80,800 86
April 8	To interest to	do.....3 days	40 40
	To balance due	do	80,841 26
	By payment	do	969 19
	To balance due	do	79,872 07
	To interest to this date	.....19 days	252 93
	To balance due this date	.....Carried forward	80,125 00
		To amount brought forward	80,125 00
April 27	By payment to this date		2,180 00
	To balance due	do	77,945 00
May 10	To interest to	do.....13 days	168 88
	To balance due	do	78,113 88
	By payment	do	3,000 00

STATEMENT—Continued.

1841.	To balance due this date		$75,113 88
August 24	To interest to	do.....3 months 14 days	1,301 97
	To balance due	do	76,415 85
	By payment	do	4,540 00
	To balance due	do	71,875 85
Sept. 17	To interest to	do.....24 days	287 51
	To balance due	do	72,163 36
	By payment	do	582 71
	To balance due	do	71,580 65
Oct. 27	To interest to	do.....1 month 10 days	477 20
	To balance due	do	72,057 85
	By payment	do	24,570 30
	To balance due	do	47,487 55
Oct. 28	To interest to	do.....1 day	7 91
	To balance due	do	47,495 46
	By payment	do	2,000 00
	To balance due	do	45,495 46
Nov'er 3	To interest to	do	37 91
	To balance due	do	45,533 37
	By payment	do	4,000 00
	To balance due	do	41,533 37
Nov'er 4	To interest to	do.....2 days	13 84
	To balance due	do	41,547 21
	By payment	do	4,000 00
	To balance due	do	37,547 21
1842.			
Feb'ry 19	To interest to	do.....3 months 15 days	657 08
	To balance due	do	38,204 29
	By payment	do	4,560 00
	To balance due	do	33,644 29
Feb'ry 24	To interest to	do.....5 days	28 04
	To balance due	do	33,672 33
	By payment to this date		220 00
	To balance due	do	33,452 33
March 11	To interest	do.....15 days	83 63
	To balance due	do	33,535 96
	By payment	do	1,075 00
	To balance due	do	32,460 96
March 12	To interest to	do.....1 day	5 41
	To balance due	do	32,466 37
	By payment	do	6,030 00
	To balance due	do	26,436 37

STATEMENT—Continued.

1842. March 23	To interest to this date.....11 days	$48 47
	To balance due do.....	26,484 84
	By payment do.....	1,785 00
1842. March 23	To balance of account due J. Robertson et al., trustees.....	24,699 84

E. E.

OFFICE OF THE TRUSTEES, 4 *September*, 1841.
BANK OF THE UNITED STATES, 26 *April*, 1842.
T.—Thos. B. Taylor.

1842. March 23	To balance of account rendered due the trustees.....	$24,699 84
	To less payment of 15 per cent. on J. Faulkner's notes, received in New York, 2 September, 1837, and applicable to the debt of J. Peck et al., but omitted in account, as advised by letter to J. Peck, 7 November, 1842.....$478 50	
	To interest thereon, from 2d Sept., 1837, 4y. 6m. 21d. 131 00	
		609 50
1843.	To balance due this date.....	24,090 34
May 26	To interest to this date.....1 year, 2 months, 3 days	1,698 34
	To balance due do.....	25,788 68
	By payment do.....	3,470 00
	To balance due do.....	22,318 68
	Amount carried forward.....	22,318 68
1843.	Amount brought forward.....	22,318 68
June 13	To interest to this date.....18 days	66 96
	To balance due do.....	22,385 64
	By payment do.....	5,394 16
	To balance due do.....	16,991 48
June 17	To interest to do.....14 days	11 33
	To balance due do.....	17,002 81
	By payment do.....	3,088 80
	To balance due do.....	13,914 01
June 24	To interest to do.....7 days	16 23
	To balance due do.....	13,930 24
	By payment do.....	1,528 74
1843.	To balance due do.....	12,401 50
Novm'r 8	To interest to do.....4 months 15 days	279 04
1843. Novm'r 8	To balance of account due this date, subject to int. on $12,401 50	12,680 50

E. E.

OFFICE OF THE TRUSTEES, 4 *September*, 1841.
OF THE BANK OF THE UNITED STATES, 8 *November*, 1843.
(Signed) HERMAN COPE, *Agent for J. Robertson et al., trustees.*

1843, May 26, by payment, being interest omitted to be credited.....$101 83

V.—Thos. B. Taylor.

Messrs. Wyllys Lyman, Lyman & Cole, John & John H. Peck, and George P. Marsh, to James Robertson et al., trustees of the Bank of the United States.

1837.			
June 4	To note due this date		$5,000 00
August 8	To interest to	do.....2 months 4 days	53 33
	To balance due	do	5,053 33
	By payment	do	1,314 16
	To balance due	do	3,739 17
August 23	To interest to	do.....11 days	6 85
	To balance due	do	3,746 05
	By payment	do	150 00
	To balance due	do	3,596 02
Nov. 22	To interest to	do.....3 months 0 days	53 94
	To balance due	do	3,649 96
	By payment	do	1,017 50
	To balance due	do	2,632 46
Dec. 27	To interest to	do.....1 month 15 days	15 35
	To balance due	do	2,647 81
	By payment	do	303 46
1842.	To balance due	do	2,344 35
May 1	To interest to	do.....4 years 4 months 4 days	411 00
1842.			
May 1	To balance of account due the trustees, subject to interest on $2,344 35		2,755 35

E. E.

OFFICE OF THE TRUSTEES, *4th September*, 1841.
OF THE BANK OF THE UNITED STATES, *26th April*, 1842.
(Signed) HERMAN COPE, *Agent for J. Robertson et al., trustees.*

U.—Thos. B. Taylor.

These are the papers marked "T," "U," "Z," "V," referred to by the affirmant, Thos. B. Taylor, in his answer to the fourth interrogatory on the part of the plaintiffs.

WILLIAM RAWLE,
WM. A. PORTER,
Commissioners.

Messrs. John Peck, Wyllys Lyman, George P. Marsh, John H. Peck, to the Bank of the United States, Dr.

W.—Tho. B. Taylor.

1838.			
April 4	To note due this date		$35,500 00
July 24	To interest to do	3 months 20 days	650 83
	To balance due do		36,150 83
	By payment do		5,000 00
	To balance due do		31,150 83
October 9	To interest to do	2 months 15 days	389 38
	To balance due do		31,540 21
	By payment do		887 50
1839.	To balance due do		30,652 71
Sept. 10	To interest to do	11 months 1 day	1,691 02
	To note due April 4, 1839	$35,500 00	
	To interest thereon to Sept. 10, 1839	5 m. 6 d. 923 00	
			36,423 00
	To balance due this date		68,766 73
	By payment do		7,006 13
1840.	To balance due do		61,760 60
Jan'y 13	To interest to do	4 months 3 days	1,266 10
	To balance due do		63,026 70
	By payment do		1,314 75
	To balance due do		61,711 95
March 11	To interest to do	1 month 27 days	577 01
	To balance due do		62,288 96
	By payment do		624 96
	To balance due do		61,664 00
May 10	To interest to do	1 month 29 days	606 35
	To note due April 4, 1840	$35,500 00	
	To interest thereon to May 10, 1840	1 m. 6 d. 213 00	
			35,713 00
	To balance due this date		97,983 35
	By payment April 22	$415 00	
	By payment May 10	450 00	
			865 00
	To balance due this date		97,118 35
June 10	To interest to do	1 month	485 59
1840.	To balance carried forward		97,603 94
June 10	To balance due this date, brought forward		97,603 94
	By payment this date		750 00
	To balance due do		96,853 94
17	To interest to do	7 days	112 99
	To balance due do		96,966 93
	By payment do		8,800 00
	To balance due do		88,166 93

1840.			
June 20	To interest to this date	3 days	$44 08
	To balance due do		88,211 01
	By payment do		365 63
	To balance due do		87,845 38
August 10	To interest to do	1 month 21 days	746 68
	To balance due do		88,592 06
	By payment do		5,400 00
	To balance due do		83,192 06
11	To interest to do	1 day	13 87
	To balance due do		83,205 93
	By payment do		465 00
	To balance due do		82,740 93
18	To interest to do	7 days	96 53
	To balance due do		82,837 46
	By payment do		460 00
	To balance due do		82,377 46
Sept. 19	To interest to do	1 month 1 day	425 61
	To balance due do		82,803 07
	By payment do		645 26
	To balance due do		82,157 81
25	To interest to do	6 days	82 15
	To balance due do		82,239 96
	By payment do		135 00
	To balance due do		82,104 96
26	To interest to do	1 day	13 68
	To balance due do		82,118 64
	By payment do		189 92
	To balance due do		81,928 72
October 1	To interest to do	5 days	68 27
	To balance due do		81,996 99
	By payment do		175 08
	To balance do		81,821 91
Decem. 2	To interest to do	2 months 1 day	831 86
	To balance do		82,653 77
	By payment do		1,650 00
	To balance do		81,003 77
8	To interest to do	6 days	81 00
	To balance do		81,084 77
	By payment do		500 00

STATEMENT—Continued.

1841.	To balance to this date		$80,584 77
Jan'y 18	To interest to do	1 month 10 days	537 23
	To debt of J. M. Catlin et al., with interest to date, charged herein as directed, per letter of John Peck to H. Cope, cashier, dated Burlington, 18th December, 1840.		
	To vizt., amount of judgment obtained in New York, 19th Feb., 1839, with costs of suit	$1,841 36	
	To interest to 18th January, 1841	211 75	
			2,053 11
	To balance due this date		83,175 11
	By payment do		2,008 93
	To balance do		81,166 18
April 5	To interest to do	2 months, 18 days	1,055 16
	To balance do		82,221 34
	By payment, March 31, '41	$350 00	
	April 5, '41	1,070 00	
			1,420 00
	To balance		80,801 34
8	To interest to this date	3 days	40 40
	To balance do		80,841 74
	By payment do		962 19
	To balance do		79,879 55
27	To interest to do	19 days	252 93
	To balance do		80,125 48
	By payment do		2,180 00
	To balance do		77,945 48
May 10	To interest to do	13 days	168 88
	To balance do		78,114 36
	By payment do		3,000 00
1841.	To balance do	carried forward	75,114 36
May 10	To balance do	brought forward	75,114 36
August 24	To interest to do	3 months 14 days	1,301 97
	To balance do		76,416 33
	By payment do		4,540 00
	To balance do		71,876 33
Sept. 17	To interest to do	24 days	287 51
	To balance do		72,163 84
	By payment do		582 71
	To balance do		71,581 13
Oct. 27	To interest to do	1 month 10 days	477 20
	To balance do		72,058 33
	By payment do		24,570 30
28	To balance do		47,488 03
	To interest to do	1 day	7 91

STATEMENT—Continued.

1841.			
	To balance to this date		$47,495 94
	By payment	do	2,000 00
	To balance	do	45,495 94
Novem. 2	To interest to	do ..... 5 days	37 91
	To balance	do	45,533 85
	By payment	do	4,000 00
	To balance	do	41,533 85
4	To interest to	do ..... 2 days	13 84
	To balance	do	41,547 69
	By payment	do	4,000 00
1842.	To balance	do	37,547 69
Feb'y 19	To interest to	do ..... 3 months 15 days	657 09
	To balance	do	38,204 78
	By payment	do	4,560 00
	To balance	do	33,644 78
24	To interest to	do ..... 5 days	28 04
	To balance	do	33,672 82
	By payment	do	220 00
	To balance	do	33,452 82
March 11	To interest to	do ..... 15 days	83 63
	To balance	do	33,536 45
	By payment	do	1,075 00
	To balance	do	32,461 45
12	To interest to	do ..... 1 day	5 41
	To balance due	do	32,466 86
	By payment	do	6,030 00
	To balance due	do	26,436 86
23	To interest to	do ..... 11 days	48 46
	To balance due	do	26,485 32
	By payment	do	1,785 00
	To balance due	do	24,700 32
	Deduct payment of 15 per cent. on J. Falkner's notes for $1,595 received in New York, 2d September, 1837, and applicable to the debt of John Peck and others, but omitted in account as advised by letter to J. Peck, esq., November 7, 1842 ..... $478 50		
	Interest thereon from 2d September, 1837, 4y. 6m. 21d.		131 00
			609 50
1843.	To balance due this date		24,090 82
May 26	To interest to	do ..... 1 year 2 months 3 days	1,698 41
	To balance due	do	25,789 23

STATEMENT—Continued.

1843.				
	By payment to this date		$3,470 00	
	And interest subsequently allowed on post note of the Bank United States, due 15th September, 1841, for $1,000 received as part of the above payment, viz.:			
	Interest from 15th September, 1841, to 26th May, 1843, 1 year 8 months 11 days		101 83	
				$3,571 83
	To balance due this date			22,917 40
June 13	To interest to do	18 days		66 65
	To balance due do			22,284 05
	By payment do			5,394 16
	To balance due do			16,889 89
17	To interest to do	4 days		11 26
	To balance due do			16,901 15
	By payment do			3,088 80
	To balance due do			13,812 35
24	To interest to do	7 days		16 11
	To balance due do			13,828 46
	By payment do			1,528 74
1846.	To balance due do			12,299 72
January 1.	To interest to do	2 years 6 months 8 days		1,861 40
	Amount carried forward			14,161 12
	Amount brought forward			14,161 12
1837.				
June 4	To Lyman & Cole's note, dated Burlington, Vt., March 25th, 1837, payable on the first day of June following, at the Union Bank in the city of New York, to the order of John and John H. Peck, Wyllys Lyman, and George P. Marsh, and endorsed by them, severally, and also by C. F. Warner, cash'r. Discounted by the Bank of the United States in Philadelphia, April 6, 1837, for the use of the endorsers, and protested at New York, 3d June, 1837, for		$5,000 00	
August 18	To interest to this date	2 months 14 days	61 66	
	To balance do		5,061 66	
	By payment do		1,314 16	
	To balance do		3,747 50	
22	To interest to do		2 50	
	To balance do		3,750 00	
	By payment do		150 00	
	To balance do		3,600 00	
Nov. 20	To interest to do	2 months 29 days	53 40	
	To balance do		3,653 40	
	By payment do		1,017 50	

STATEMENT—Continued.

1837.			
	To balance to this date.....	$2,635 90	
Dec. 26	To interest to do.....1 month 6 days	15 81	
	To balance do.....	2,651 71	
	By payment do.....	303 46	
1846.	To balance do.....	2,348 25	
January 1	To interest to do.....8 years 6 days	1,129 50	
			$3,477 75
	Balance due, January 1, 1846.....		17,638 87

E. E.

OFFICE TRUSTEES BANK U. STATES.

This is the paper marked "W," referred to by the affirmant, Thos. B. Taylor, in his answer to the fourth interrogatory on the part of the plaintiffs.

WILLIAM RAWLE,
WM. A. PORTER,
Commissioners.

Office of the trustees (4 *Sept.*, 1841,) *of the bank of the United States*, 10 *June*, 1842.

DEAR SIR:

I have received your favor of the 14th inst., and in reply to that portion of it relating to the claim against Phelps Smith, I send you copies of our correspondence on the subject, which will explain to you how that matter stands.

With regard to the claims against J. Truesdell & Son, and Joseph Gary, for $4,884$\frac{44}{100}$; and against Silas E. Burroughs and J. Truesdell & Son, on two notes, one for $1,531$\frac{44}{100}$, and the other for $1,005$\frac{22}{100}$, mentioned in your letter—these claims, as I understand, were included in the sale to you of the assets of the Bank of the United States at Burlington, subject to an agreement for a compromise of them by Mr. Burroughs, with the bank, within a reasonable time, by the payment of 33$\frac{1}{3}$ per cent. of the principal in discharge of the debt for which he was liable; and for the Truesdell and Gary debt, it appears to have been compromised and the parties actually discharged by the Burlington office, before the sale of those assets was made to you, and consequently regarded as worthless at the time. Mr. Burroughs never having complied with the terms of compromise originally agreed upon, and the bank never having received any thing from him on account of the same, the debt passed to you by the sale, and the parties are liable to you for the amount due upon it, whatever that may be.

I cannot, therefore, perceive what further the bank, or its trustees, have now to do with either of these claims.

Very respectfully and truly yours,

HERMAN COPE,

Agent for J. Robertson et al., trustees.

DR. JOHN PECK,

Burlington, Vermont.

This is the paper marked "X" referred to by the affirmant, Thomas B. Taylor, in his answer to the sixth interrogatory on the part of the plaintiffs.

WILLM. RAWLE,
WM. A. PORTER,
Commissioners.

X.—THOS. B. TAYLOR.

This indenture, made the fourth day of September, in the year of our Lord one thousand eight hundred and forty-one, by and between the President, Directors, and Company of the Bank of the United States of one part, and James Robertson, of the city of Philadelphia and State of Pennsylvania, esquire, Richard H. Bayard, of the city of Wilmington and State of Delaware, esquire, James S. Newbold, Herman Cope, and Thomas S. Taylor, all of the city of Philadelphia and State of Pennsylvania, esquires, of the other part: Whereas, the party of the first part are indebted to sundry persons and bodies corporate in divers sums of money, which, from various causes, the said party of the first part are unable at present fully to pay and satisfy, but are desirous of providing an adequate security for the payment and satisfaction of the same, in a just and equitable manner.

Now this indenture witnesseth, that the said party of the first part, as well for the consideration aforesaid, as for and in consideration of the snm of one dollar to them in hand paid by the party of the second part, at and before the sealing and delivery of these presents, the receipt whereof they do hereby acknowledge, have granted, bargained, sold, aliened, enfeoffed, released, confirmed, assigned, delivered, transferred, and set over, and by these presents do grant, bargain, sell, alien, enfeoff, release, confirm, assign, deliver, transfer, and set over, unto the said party of the second part, all and singular the lands, tenements, hereditaments, stocks, goods, chattels, rights, credits, moneys, property and effects of the said party of the first part, whatsoever and wheresoever, saving and excepting only the estate, property, and effects contained, described, and set forth in a certain schedule hereunto annexed, sealed with the seal of the said party of the first part, and bearing even date herewith; and excepting also all the right, title, interest, property, claim, and demand of the said party of the first part, whether present, resulting, or eventual, of, in, and to any and all the lands, tenements, and hereditaments, goods, chattels, moneys, stocks, debts, effects and property whatsoever and wheresoever, heretofore granted, assigned, transferred, mortgaged, hypothecated, pledged, or delivered by the said party of the first part, to any person or persons, or bodies corporate what-

soever, for the use, security, or indemnity of any creditor or creditors, surety or sureties, or other persons or bodies corporate whatsoever, together with all the deeds, papers, muniments of title, and evidences belonging or relating thereto. To have and to hold all and singular the premises hereby given, granted, assigned, and transferred, or intended so to be, to the said party of the second part, and to the survivor of them, and the heirs, executors, administrators, and assigns of such survivor, to and for their and his own use, benefit, and behoof forever, as joint tenants, and not as tenants in common. In trust, nevertheless, to and for the following uses, intents, purposes, and trusts, and to and for none other whatsoever: That is to say, in trust, in the first place, to enter upon the real estate hereby granted, and to sell, dispose of, and convey the same in fee simple, or for any less estate, by public or private sale, for the best price that can be obtained for the same, for cash or on credit, as to them may seem most expedient, and to give receipts for the purchase money, so that the purchaser or purchasers shall not be accountable for the same; and in the mean time, and until sales shall be made, to receive the rents, issues, and income of the said real estate, and pay the charges thereon; and to sell, dispose of, assign, and transfer all the personal estate, property, and effects hereby assigned, transferred, and set over by the party of the first part to the party of the second part, for the best price that can be obtained for the same, for cash or on credit, as to them shall seem most expedient; and to receive in payment for the same, and in payment of the real estate so as aforesaid sold and conveyed, the notes of the party of the first part, if the said party of the second part shall deem it expedient so to do; and, in the next place, in trust to ask, demand, sue for, recover, receive, collect, and get in all and singular the debts and moneys due and owing to the said party of the first part, and hereby assigned; and, at their discretion, to compromise and compound for the same; and the moneys so collected, received, and got in, as well as the proceeds of the said real and personal estate, safely to keep and apply, to and for the uses and purposes herein declared, that is to say:

In the first place, to pay and discharge all reasonable and necessary expenses, costs, and charges attending the execution of this trust; in which it is expressly understood and agreed that there shall be included, to be charged by, and allowed to, the said James Robertson, Richard H. Bayard, and James S. Newbold, the three assignees first above mentioned, so long as they shall respectively continue in the execution of this trust, the annual sum of fifteen hundred dollars each; and to be charged by, and allowed to, the said Herman Cope and Thomas S. Taylor, the two assignees last above mentioned, respectively, so long as they shall respectively devote their whole time and attention to the business and concerns of this trust, so far as the same shall be required, the annual sum of four thousand dollars each, being an amount equal to the salaries which the said Herman Cope and Thomas S. Taylor respectively receive as superintendent of suspended debt and cashier of the bank of the United States, which salaries are now to cease and de-

termine. Provided, always, that if at any time hereafter any creditor or creditors of the said party of the first part, interested in this trust to the amount, together, of five hundred thousand dollars, or more, shall require the parties of the second part to call a meeting of all the creditors so interested, for the purpose of diminishing, enlarging, or revoking such allowances to the assignees above mentioned, or any of them, that it shall then be the duty of the said party of the second part to call such meeting, to be held at some convenient place to be by them appointed, of which thirty days notice shall be published in two or more of the daily newspapers of the city of Philadelphia, at least twice a week during said period of thirty days; and at such meeting, a majority in number and value of said creditors shall, then and there, have power to diminish, increase, or revoke the said allowance accordingly; and in case of such diminution or revocation, then the trust of this indenture in regard to such allowance, shall thereafter conform to such order of the creditors aforesaid; saving nevertheless, in that event, to the parties of the second part, and each of them, their right to such compensation as a competent tribunal shall, in this behalf, hold them to be respectively entitled to, for their services in the execution of this trust.

And, in the second place, to pay off, discharge, and satisfy all the judgments heretofore entered and obtained against the said party of the first part, in any court or before any magistrate, in the State of Pennsylvania, together with the interest, costs, and charges, accruing thereon. And, in the third place, fully and completely to indemnify and save harmless the legal representatives of the estate of Charles H. Phelps, deceased, from any loss or damage which the said estate has sustained, or may sustain, for or by reason of any suretyship, engagement, or responsibility of any kind whatsoever, which the said Charles H. Phelps, or the legal representatives of his estate, may have entered into for or on behalf of the party of the first part to these presents; and especially to make good, and carry into full effect to the said legal representatives, a certain agreement or engagement made to the said Chas. H. Phelps, and contained in a letter addressed to him by Joseph Cowperthwait, esq., acting on behalf of the party of the first part, together with William D. Lewis, esq., acting on behalf of the Girard Bank, and bearing date the seventh day of November, A. D. one thousand eight hundred and thirty-nine. And, in the fourth place, fully to indemnify and save harmless all other sureties from any loss or damage which they or any of them have sustained, or may sustain, for or by reason of any suretyship, engagement, or responsibility, of any kind whatsoever, which they respectively have entered into for or on behalf of the said party of the first part to these presents. And, in the fifth place, from time to time, as often as they shall have moneys in hand of sufficient amount for a dividend, to divide and distribute the same rateably and equally in and towards the payment of all and every the debts of the said party of the first part, and the interest accrued thereon, so that each creditor may participate rateably and alike in every such dividend, until all the said debts and the interest accrued thereon shall be fully

paid off and discharged, except post notes issued to or held by certain banks in the city and county of Philadelphia, for which security was provided and given by an indenture bearing date the first day of May, in the present year, and which are not intended to be provided for and embraced in the present indenture. And in further trust, from and after the payment and discharge of the debts intended to be secured and provided for by this indenture, in full with interest, then to retransfer, convey, and pay over, to the said party of the first part, their successors and assigns, whatever may remain of the premises hereby granted or assigned; and all moneys, credits, and effects, which may have been raised therefrom, or from any part thereof, and not applied to the purposes of the trusts herein and hereby created, together with all deeds, papers, muniments of title, evidences, and securities relating thereto: provided always, nevertheless, and it is hereby expressly declared, understood, and agreed, as the condition of this indenture, and the trusts therein and thereby created, that before the said trustees, their successors or assigns, shall proceed to make or declare any dividend of the moneys raised or collected as aforesaid, they shall give thirty days' notice of their intention so to do, in two or more of the daily newspapers, published in the city of Philadelphia, at least twice a week during the said period of thirty days, calling upon the claimants to come forward and prove their debts; and such dividend shall be declared and made only on the amounts so brought forward and proved; and no creditor shall be entitled to claim or receive such dividend who shall not have brought forward and proved his, her, or their debt or debts, before the time appointed for making and declaring such dividend. But if any further dividends shall thereafter be made, such neglecting or defaulting creditor, bringing forward and proving his, her, or their claim or claims, in time therefore as aforesaid, shall be entitled to receive, in addition to such dividend, an amount equal to the rate of dividend or dividends which shall have been before made and paid; and so on, from time to time, until a final dividend shall be declared and made; which final dividend the said trustees, their successors and assigns, are hereby authorized and required to declare and make, whenever the moneys arising from the premises, hereby granted and assigned, shall, by the payment of the said final dividend, be disposed of and exhausted, or when all the creditors who have brought forward and proved their claims, shall be paid in full, principal and interest; it being understood, however, that no interest shall be paid until the final dividend; and from and after such final dividend no creditor shall have any claim upon the remaining fund, if any there be, nor upon the said trustees, their successors or assigns, for or by reason of these presents, or the trusts herein or hereby created; but the same, except the trust for reconveying the surplus to the said party of the first part, their successors or assigns, shall thenceforth cease, determine, and be at an end: provided, also, and it is expressly understood and agreed, that if the said party of the first part, their successors or assigns, shall, at any time, pay off and discharge the said debts, then and from thenceforth the trusts here-

in and hereby created, or so much thereof as shall then remain unexecuted, shall cease and be determined; and the whole of the trust property then remaining shall be conveyed, transferred, and be delivered to the said party of the first part, their successors or assigns. And it is hereby expressly agreed, by and between the parties to these presents, as a condition and part thereof, that the said trustees, their successors and assigns, shall not be answerable for the acts, omissions, or defaults of each other, but only each for his own acts, omissions, and defaults; and that they shall not be answerable for the misconduct, omission, or default of any agent or agents they may find it necessary to employ, but that they shall be accountable only for the exercise of fair and reasonable skill and judgment, as well in the appointment of such agent or agents, as in the general management of the trust hereby created, if the same be executed in good faith and intention. And it is hereby further understood and agreed, that the compensation above agreed to be charged by, and allowed to, the parties of the second part, for their services in executing this trust, shall be at the rate of fifteen hundred dollars per annum to each of the three assignees first above named, and at the rate of four thousand dollars per annum to each of the two assigns last above named; and that the said compensation shall be apportionable according to the time the said assignees shall respectively continue in the performance of the duties of the trusts hereby created; and the better to enable the party of the second part, their successors and assigns, to execute the said trusts, the said party of the first part do hereby make, constitute, and appoint them their true and lawful attorneys and attorney, irrevocable in the premises, for them and in their name, but to and for the uses, intents, and purposes of this trust, and at the cost and charges of the same, to ask, demand, sue for, and recover, and receive all and every sum or sums of money due, or to become due, by reason of any matter or thing herein or hereby granted and assigned, or intended so to be, and to give receipts and acquittances for the same; and generally to act and do as fully and effectually in the premises as they themselves might or could do, and substitute or substitutes, one or more, under them to nominate and appoint, and again at pleasure to revoke such nominations or appointments, hereby ratifying and confirming whatsoever they or their said substitute or substitutes may lawfully do in the premises.

In witness whereof the said parties have hereunto interchangeably set their hands and seals, the said the President, Directors, and Company of the Bank of the United States, party of the first part, acting by their president, James Robertson, esq., at Philadelphia, the day and year first above written.

J. ROBERTSON, *Pres't.* [SEAL.]

We accept the trusts created by the above indenture of assignment.

J. ROBERTSON, [SEAL.]
JAMES S. NEWBOLD, [SEAL.]
HERMAN COPE, [SEAL.]
THOS. S. TAYLOR. [SEAL.]

Signed, sealed, and delivered in the presence of us—
JNO. PENNINGTON,
G. W. FAIRMAN.

The word "Wilmington," in the second line from the top, and the word "said," in the thirty-seventh line from the top, being written on erasures, and the words "in the State of Pennsylvania," between the thirty-first and thirty-second lines from the top, being interlined before execution.

This is the paper marked "Y," referred to by the affirmant, Thomas B. Taylor, in his answer to the seventh interrogatory, on the part of the plaintiffs.

WM. RAWLE,
WM. A. PORTER, *Com'rs.*

STATE OF PENNSYLVANIA,
City of Philadelphia.

Before me, the subscriber, mayor of the city of Philadelphia, appeared the above named James Robertson, esq., to me personally known as the President of the corporation above named, the President, Directors, and Company of the Bank of the United States, who, being duly sworn, according to law, did depose and say, that he executed the above written indenture, as president of the said corporation, and that the above impression is the common seal of the said corporation, thereto duly affixed by authority of the board of directors, and that the said indenture is sealed and delivered as the proper act and deed of the said the President, Directors, and Company of the Bank of the United States, for the uses, intents, and purposes therein set forth. And John Pennington and George W. Fairman, the subscribing witnesses to the said indenture, being duly sworn, do declare that they were present, and did see the said president, James Robertson, esq., sign the said indenture, affix thereto the common seal of the said corporation, and deliver the said indenture as the act and deed of the said corporation.

Witness my hand and the common seal of the said city, this fourth day of September, in the year of our Lord one thousand eight hundred and forty-one.

JOHN SWIFT, *Mayor.* [SEAL.]

Schedule of property and effects alluded to in annexed deed of assignment:

4,020 shares of the capital stock of the Cumberland Valley Railroad Company.

25 shares of the capital stock of the Erie Salt Company.

2,020 shares of the capital stock of the Franklin Railroad Company.

400 shares of the capital stock of the Somerset and Cumberland Turnpike Company.

300 shares of the capital stock of the Williamsport Bridge Company.

5,203 shares of the capital stock of the Sunbury and Erie Railroad Company.

200 shares of the capital stock of the Johnstown and Ligonier Turnpike Company.

2,000 shares of the capital stock of the Wrightsville, York and Gettysburg Railroad Company.

600 shares of the capital stock of the Warren and Ridgeway Turnpike Company.

600 shares of the capital stock of the Warren and Franklin Turnpike Company.

300 shares of the capital stock of the Washington and Pittsburg Turnpike Company.

1,000 shares of the capital stock of the Monongahela Navigation Company.

200 shares of the capital stock of the Roseberg and Mercer Turnpike Company.

134 shares of the capital stock of the Union Canal Company.

30 shares of the capital stock of the West Philadelphia Railroad Company.

Philadelphia, the fourth day of September, A. D. 1841.

J. ROBERTSON, *President*. [SEAL.]

Sealed, signed and delivered in the presence of us—

JNO. PENNINGTON,

G. W. FAIRMAN.

This indenture, made the sixth day of September, in the year of our Lord one thousand eight hundred and forty-one, by and between the President, Directors, and Company of the Bank of the United States, of the one part, and James Robertson, of the city of Philadelphia, and State of Pennsylvania, esquire, Richard H. Bayard, of the city of Wilmington, and State of Delaware, esquire, James S. Newbold, Herman Cope and Thomas S. Taylor, all of the said city of Philadelphia, esquires, of the other part, witnesseth: That the said party of the first part, for divers good, sufficient, and valuable considerations them thereunto moving, and also for and in consideration of the sum of one dollar, to them in hand paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof they do hereby acknowledge, have granted, bargained, sold, aliened, enfeoffed, released, confirmed, assigned, transferred, delivered, and set over, and by these presents do grant, bargain, sell, alien, enfeoff, release, confirm, assign, transfer, deliver, and set over, unto the party of the second part, all the right, title, interest, property, claim, and demand of the said party of the first part, whether present, resulting, or eventual, of, in, and to any and all the lands, tenements, hereditaments, goods, chattels, moneys, stocks, debts, effects, and property, whatsoever and wheresoever, granted, mortgaged, assigned, transferred, hypothecated, pledged, or delivered by the said party of the first part to any person or persons, body or bodies corporate whatsoever, for the use, security, payment, or indemnity of any creditor or creditors, surety or sureties, or other persons or bodies corporate whatsoever, prior to the

4th day of September, in the year of our Lord one thousand eight hundred and forty-one, saving and excepting only all the right, title, interest, property, claim, and demand of the said party of the first part, whether present, resulting, or eventual, of, in, and to all the goods, chattels, moneys, stocks, debts, effects, and property whatsoever, heretofore assigned, transferred, hypothecated, pledged, or delivered by the said party of the first part, to any person or persons, or bodies corporate, whatsoever, for the use, security, payment, or indemnity of any creditor or creditors, surety or sureties, or other persons or bodies corporate, in Europe; together with all deeds, papers, muniments of title, and evidences relating thereto: to have and to hold all and singular the premises hereby given, granted, assigned, transferred, and set over, or intended so to be, to the said party of the second part, and the survivor of them, and the heirs, executors, administrators, and assigns of such survivor, to and for their and his own use, benefit, and behoof forever. In trust, nevertheless, to and for the same uses, intents, and purposes, and upon the same trusts, and under and subject to the same terms, conditions, provisoes, limitations, restrictions, and qualifications, as are mentioned, set forth, and declared, in and by a certain deed of assignment made and executed by and between the parties to these presents, bearing date the said fourth day of September, in the year of our Lord one thousand eight hundred and forty-one, and to which this deed of assignment is intended to be a supplement.

In witness whereof the said parties have hereunto interchangeably set their hands and seals, the said the President, Directors, and Company of the Bank of the United States, acting by their president, James Robertson, esquire, at Philadelphia, the day and year first above written.

J. ROBERTSON, *President.* [SEAL.]

Signed, sealed and delivered in the presence of us—
JNO. PENNINGTON,
G. W. FAIRMAN.

We accept the trusts created by the above indenture of assignment.

J. ROBERTSON, [SEAL.]
JAMES S. NEWBOLD, [SEAL.]
HERMAN COPE, [SEAL.]
THOS. S. TAYLOR, [SEAL.]

This is the paper marked Z, referred to by the affirmant, Thos. B. Taylor, in his answer to the seventh interrogatory on the part of the plaintiffs.

WM. RAWLE,
WM. A. PORTER,
Commissioners.

STATE OF PENNSYLVANIA,
City of Philadelphia.

Before me, the subscriber, mayor of the city of Philadelphia, appeared the above named James Robertson, esquire, to me personally known as the president of the corporation above named, the President, Directors, and Company of the Bank of the United States, who being duly sworn according to law, did depose and say, that he executed the